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This manual addresses federal Title IV-E requirements for eligibility determinations and funding under federal guidelines. Any additional requirements in the *Code of Virginia* that would not impact Title IV-E eligibility and funding are not addressed.

101.1 LEGAL BASE - Virginia's Title IV-E Program is a federal entitlement program for children in the agency's care/custody who meet certain criteria. The program is administered in accordance with Title IV-E of the Social Security Act. In 1980, the Federal Adoption Assistance and Child Welfare Act (Public Law 96-272) created new sources of funding under Title IV-E of the Act for the placement of children from needy families. Title IV-E requires certain protections for children, including reasonable efforts to prevent unnecessary removal of the child from his home, returning the child to his home as soon as conditions in the home permit, and facilitating the adoption or other permanent placement for children who cannot be returned to their own homes.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193) created the Temporary Assistance for Needy Families (TANF) block grant to replace the Aid to Families with Dependent Children (AFDC) Program. Although AFDC was repealed, the AFDC Program requirements in effect in Virginia on July 16, 1996, remain in effect in Title IV-E programs. If a child is receiving TANF assistance, this does not mean that the child is eligible for Title IV-E assistance. Title IV-E eligibility decisions must be based on the AFDC requirements as set forth in Virginia's Title IV-E Eligibility Manual.

102.1 ADMINISTRATION - Section 63.1 (§ 63.2 effective October 1, 2002) of the *Code of Virginia* mandates a local department of social services in every political subdivision of the state, or combination thereof, and specifies the duties and responsibilities of the local board of social services and director, as well as the methods of discharging these responsibilities. The law also defines the general and specific duties and responsibilities of the Virginia Department of Social Services in relation to supervision of the local departments of social services. The eligibility worker is responsible for determining eligibility and reimbursability for Title IV-E foster care cases and recommending accurate payment, and for screening cases for adoption assistance eligibility.

103.1 NONDISCRIMINATION

- A. Federal Authority - Federal regulations at 45 Code of Federal Regulations, § 1355.30, specify the nondiscrimination requirements applicable to Title IV-E foster care. The local department of social services must assure that no person shall, on the grounds of age, race, color, sex, handicap, religious creed, national origin, or political belief, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

- B. Complaint Procedures - Any person who believes that he has been subjected to discrimination on the basis of race, color, national origin, sex, age, religion, political affiliation, or handicap, has a right to file a complaint. Such a complaint may also be filed by a representative of the person allegedly discriminated against. Procedures below are to be followed:
1. When the alleged discriminatory practice is on the part of the local department or its staff, the complaint is to be made, in writing, to the local board of social services not later than 180 days from the date of the alleged discrimination. A complaint may also be filed with the Commissioner of the Virginia Department of Social Services, or with the U. S. Department of Health and Human Services, Region III, Office of Civil Rights. The written complaint must include:
    - a. The name of the person or persons felt to have been treated unfairly;
    - b. The date and nature of the treatment received;
    - c. The names of other persons, if any, who were present when this action allegedly occurred;
    - d. Any other pertinent facts related to the complaint;
    - e. The date the complaint is made; and
    - f. The signature of the person making the complaint.
  2. Each complaint received is to be investigated and corrective action taken, if appropriate.
  3. If the person making the complaint requests a hearing before the local board, the request is to be granted and reasonable notice of the hearing given by the agency to those persons whose participation is necessary in a review of the questions raised in the complaint.
  4. Following the hearing, the local board will give the complainant a statement of the findings, and if the complaint is justified, a statement as to what corrective action will be taken.
  5. If the complainant is not satisfied with the findings of the local board, he may write within 30 days of the date of receipt of the board findings to the Virginia Department of Social Services.
  6. The Virginia Department of Social Services will make an investigation of the circumstances and advise the complainant, in writing, of its findings and of any action to be taken by the local department.

- C. Records, Reports, And Reviews - The local department is to maintain in its administrative file a record of each complaint, including the complainant's statement and a file of the investigations, findings, and action taken. If there has been a hearing before the local board, the record should include a copy of the board's statement to the complainant.

From time to time, other reports may be required by the Virginia Department of Social Services to assure compliance with the Civil Rights laws.

The practices of a local department with respect to compliance are subject to review by a representative of both the state and federal agencies.

State staff in the regional offices have responsibility for reviewing and supervising local methods of handling complaints.

104.1 PURPOSE OF SAFEGUARDING OF INFORMATION - Mutual trust and confidence between client and worker are basic to an effective program of assistance and services. The client has a responsibility to provide information needed to determine IV-E eligibility. At the same time, the client has a right to expect that information given to the agency will be kept confidential and made use of only as needed in the administration of Title IV-E.

Federal regulations at 45 Code of Federal Regulations, § 205.50, and Virginia law at § 63.1-53 (§ 63.2-102 effective October 1, 2002) and §§ 2.2-3800 et seq., govern the confidential treatment of case information in Title IV-E programs.

104.2 DISCLOSURE OF ADDRESS OF FUGITIVE FELONS - The agency must provide to a state or local law enforcement officer the address of a current recipient who is a fugitive felon. In order for the agency to provide such information, the officer must furnish the recipient's name, social security number, and evidence of an outstanding warrant for the arrest or apprehension of the fugitive felon. Evidence of a warrant is not limited to the actual warrant itself; however, some type of written documentation that substantiates that a warrant is outstanding is mandatory. "Current recipient" refers to an individual who forms part of the assistance unit used to determine financial need in conducting the initial Title IV-E eligibility determination.

The record must be documented carefully regarding the release of the address, and a copy of the evidence of the warrant must be filed in the case record. If there is any question as to whether the crime identified on the warrant is a felony, the agency should check with the Commonwealth's Attorney.

105.1 FUNDING - Title IV-E maintenance expenditures are accommodated through federal financial participation (FFP) and from state funds authorized by the General Assembly of Virginia. Substantial FFP and state funds are also available for administrative costs and training. Federal Title IV-E funding is "open-ended" ( i.e., available to the Commonwealth without limit). In most instances, Virginia's reimbursement is determined by the "access rate" (i.e., the percentage of children in out-of-home care who have been found eligible for IV-E foster care.

201.1 IMPORTANCE OF TITLE IV-E FOSTER CARE - The federal Title IV-E foster care program was established to help states provide proper care for eligible children who need placement outside their homes in a foster family home, or in a child caring institution. The program provides funds to states to assist with the costs of foster care maintenance for eligible children; administrative costs to manage the program; and training costs for staff, foster parents, and certain private agency staff.

201.2 BENEFITS TO THE CHILD IN FOSTER CARE - Title IV-E can help the child in foster care in both financial and programmatic ways. Title IV-E mandates that a child not be removed from his or her home, unless a court has found that continued residence in that home would be "contrary to the welfare" of the child and that "reasonable efforts" have been made to prevent placement in foster care. These legal protections provide a safeguard against the unnecessary or hasty removal of a child for any reason other than the safety of the child. The legal protections establish uniform procedures to be followed when removing a child from his home.

Without such uniform protections, the circumstances of removal and the length of stay in out-of-home care would be dependent on the jurisdiction where the child lives. Title IV-E, particularly with the amendments to the law created by the Adoption and Safe Families Act of 1997, requires state and local child welfare systems to be responsive to the multiple and often complex needs of children and their families.

The opportunity for accessing Title IV-E reimbursement may guarantee certain safeguards in the choices made once the child has entered foster care. Title IV-E mandates that children be placed in a licensed or approved foster care setting in order for those costs to be eligible for federal reimbursement. This requirement provides basic assurances that children are placed in appropriate and safe settings while in foster care.

Title IV-E also provides funding to states for the purpose of increasing opportunities for children to live in permanent homes. Children with special needs who are found eligible for either Title IV-E or Supplemental Security Income (SSI) while in foster care are eligible for a federal adoption subsidy. ("Special needs" include a child's emotional/physical problems and other factors, such as age and minority status.) Adoption subsidies are provided to increase the likelihood that the child will find a suitable adoptive home.

201.3 BENEFITS TO THE LOCALITY - Title IV-E eligibility enables localities to receive full (100 percent) reimbursement for the costs of foster care maintenance for eligible and reimbursable children. Maintenance costs paid by localities on behalf of IV-E children are reimbursed by the Commonwealth from state and federal funds, with each paying approximately one-half of costs incurred. In contrast, localities must pay an average of 35 percent of the cost of foster care maintenance for children who have not been found eligible for Title IV-E.

Title IV-E also authorizes 75 percent federal financial participation (FFP) for the costs of training staff, foster care providers, and foster parents. Increased funding for training provides higher quality care for children in foster care.

201.4 TYPES OF TITLE IV-E ELIGIBILITY AND CLAIMS - The Title IV-E foster care program has two distinct categories of eligibility and two distinct types of federal claims for FFP.

A. Eligibility - The two types of eligibility are:

1. Initial IV-E Eligibility - This is a one-time eligibility evaluation completed when the child enters care to determine whether the child qualifies for IV-E for that episode in care; and
2. Ongoing Reimbursability - This is an eligibility evaluation required each time a change is reported during an episode of care to determine whether a child's maintenance and/or administrative costs are reimbursable.

B. Claims - There are two types of Title IV-E claims that the Commonwealth may make on behalf of a foster child in care. They are: maintenance and administrative (non-maintenance) claims.

1. Maintenance - A maintenance claim is made to secure federal matching funds to offset the monthly cost of foster care maintenance payments, which includes the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel for a child's visitation with family or other caretakers.
2. Administrative - Federal policy defines administrative costs as:
  - a. Referral services;
  - b. Preparation for and participation in judicial determinations;
  - c. Placement of the child;
  - d. Development of the case plan;
  - e. Case reviews;
  - f. Case management and supervision;
  - g. Recruitment and licensing of foster homes and institutions;
  - h. Rate setting;
  - i. A proportionate share of related agency overhead; and
  - j. Costs related to data collection and reporting.

Federal policy further specifies that allowable administrative costs do not include the costs of social services provided to the child, the child's family, or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors, or home conditions.

Generally, federal reimbursement for administrative costs is 50 percent. The amount of the state's reimbursement is tied to the percentage of children in foster care.

The ways in which eligibility and reimbursability affect the ability to claim federal funds under Title IV-E are illustrated below.

REIMBURSABILITY		IV-E ELIGIBLE CHILD (SECTION 202.6 - 202.9)	IV-E INELIGIBLE CHILD (SECTION 202.2.B.1 - 6)
Are the child's maintenance costs reimbursable?	Yes	Maintenance and Administration	No Federal Funding
	No	Administration Only (Non-Maintenance)	No Federal Funding

The Commonwealth may claim federal reimbursement for both maintenance and administrative costs on behalf of children in foster care who meet both the initial eligibility and ongoing eligibility (reimbursability) criteria.

The Commonwealth may claim reimbursement for administrative costs on behalf of all children in foster care who meet the IV-E initial eligibility requirements, regardless of their ongoing Title IV-E "reimbursability" status. For example, a child who has been found initially eligible for Title IV-E, but is placed in a setting that is ineligible for reimbursement of maintenance costs (e.g., a secure facility, hospital, unlicensed group home, or a trial visit in the child's own home) is still eligible for reimbursement of administrative costs. This child's case is "eligible, not reimbursable."



202.1 KEY TERMS - The eligibility worker must determine the IV-E "eligibility month," the "removal home," and the "assistance unit" before beginning the initial eligibility determination of the foster care case. The circumstances of the "assistance unit" in the "removal home" in the "eligibility month" are vital to making an accurate Title IV-E eligibility determination on behalf of the child placed in foster care.

- A. "Eligibility Month" - The Title IV-E "eligibility month" is defined as the month in which court action was initiated to remove a child from his or her home (filing a petition) or the date a voluntary placement agreement (e.g., an entrustment agreement or noncustodial agreement) is signed **and dated**. Therefore, if a petition for removal is filed on March 30 and the court date and removal date are April 1, March would be the "eligibility month." The date a child was legally removed or was placed in foster care may be different than the date of the actual petition or initial custody order.

AFDC-relatedness must be assessed based upon information within the **180 days** prior to or during the eligibility month. If a child is not living with the specified relative from whose home he or she is being removed in the month of the voluntary placement agreement or petition, the child can be deemed eligible in the eligibility month if:

1. The child had been living with a specified relative at some time within the six-month period prior to the eligibility month; and
2. **The Child** would have been eligible in the removal home (in the month of the voluntary placement or petition) if the child had continued to reside with the relative.

- B. "Removal Home/Specified Relative" - To be IV-E eligible, a child must have been removed from the home of a specified relative within **180 days** of the eligibility month. If the local agency obtains custody/legal responsibility but decides to leave the child at home, the child cannot be IV-E eligible.

There are two types of removal:

1. "Physical removal" occurs when the local department of social services has physically removed the child from the home of a specified relative; and
2. "Constructive removal" is essentially a paper removal. It occurs when the local department of social services has obtained legal custody/care of the child but does not physically remove the child from the home where he or she currently lives.

Identifying the correct specified relative from whose home the child was removed is necessary in order to (1) identify the removal home, and (2) determine the composition of the assistance unit for purposes of evaluating categorical and financial eligibility.

In the context of a "removal" (physical or constructive), the term "specified relative" from whom the child is removed may not necessarily be the same individual with whom the child was residing in the eligibility month.

- C. "Assistance Unit" - The "AFDC assistance unit" is the group of individuals in the "removal home" whose income and resources are counted when making an AFDC-relatedness financial need determination to establish Title IV-E initial eligibility. The income and resources of all members of the "removal home" are not necessarily counted as available to the child in the eligibility month. Only relatives with a legal responsibility to provide care for the child and the child's minor siblings in the home will be included in the "assistance unit" and have their income and resources counted.

Parents (**including biological and adoptive once the adoption is finalized**) are the only relatives who have a legal responsibility to provide for a child. If the parent is residing in the "removal home" in the eligibility month, then the "AFDC assistance unit" will include the parent(s), the child, and any minor siblings living in the home. The gross countable income of these individuals is counted when determining AFDC financial need eligibility on behalf of the child in foster care. If a stepparent is living in the home also, a portion of the stepparent's income may be deemed to the assistance unit.

If the child is removed from the home of a specified relative other than the parent(s), the "AFDC assistance unit" will include only the child and any minor siblings living in the home. Under these circumstances, only the income and resources of the child and his minor siblings living in the home are counted to determine financial need eligibility.

Required AFDC assistance unit members who are receiving SSI, except the child entering foster care, are excluded from the unit for purposes of determining assistance unit size, and their income and resources are excluded when evaluating initial financial eligibility. If the child entering foster care is receiving SSI, he or she is included in the AFDC assistance unit with his/her needs, income (excluding SSI), and resources considered in determining initial Title IV-E eligibility.

The "IV-E assistance unit" is composed of the child determined IV-E eligible. The child's own income and resources are considered in determining ongoing reimbursability. Refer to Section 202.13 for policy on determining eligibility and need when the child in foster care is a minor parent, and the child and minor parent reside together.

- D. "Best Available Evidence" - The eligibility policies and procedures governing Title IV-E broadly reflect those in effect under the AFDC Program. Many requirements for documentation and verification that were required in determining eligibility for AFDC are not necessary to accurately determine eligibility for Title IV-E foster care.

Although the need for accuracy remains under Title IV-E, eligibility decisions do not require the level of precision necessary to determine the appropriate level of cash benefits. For example, while amounts of AFDC varied according to income, Title IV-E eligibility does not. The child is either eligible for Title IV-E at the time of removal or he/she is not. The amount of assistance would not vary according to income.

Eligibility workers must use the best evidence available at the time of the eligibility determination. The information reported by the service worker is acceptable as the best available information of eligibility factors, unless the eligibility worker has conflicting information from another source. Eligibility workers should use prudent judgment in determining what evidence substantiates IV-E eligibility. Information obtained from agency records or computer matches is also acceptable, if the agency is satisfied that the information reasonably reflects the assistance unit's situation in the eligibility month. Databases that may be accessed include ADAPT (Application Benefit Delivery Automation Project), APECS (Automated Program to Enforce Child Support), SVES (State Verification Exchange System), DMV (Department of Motor Vehicles), and VEC (Virginia Employment Commission) wage records. Self-declared income statements are acceptable under this standard.

Workers should not delay eligibility determinations if they have documentation sufficient to make an informed, reasonable decision. The eligibility worker must document the case record with respect to the method and source of information used in establishing eligibility.

The areas where the "best available evidence" criterion cannot be applied are with respect to initial petitions, court orders, voluntary agreements, proof of citizenship or qualified alien status, and documentation of mental or physical disability. The federal law requires that these documents be in the case record to support the determination of Title IV-E eligibility.

202.2 INITIAL IV-E ELIGIBILITY DETERMINATION - This section of the Title IV-E Eligibility Manual identifies and explains the eligibility criteria that must be met to be Title IV-E eligible. A child's initial and continuing eligibility for IV-E foster care are tied to his or her initial eligibility based on AFDC-relatedness.

- A. A child who meets all of the eligibility criteria provided in this section is IV-E eligible. Title IV-E eligibility is determined at the time the agency obtains legal responsibility of the child through a court order or a voluntary placement agreement (entrustment or noncustodial agreement).
- B. Once initial eligibility is established, the child continues to be eligible while under the care and responsibility of the agency, unless one of the following circumstances occurs. In that instance, the child is ineligible for Title IV-E and must be transferred to non-IV-E foster care effective the month following loss of IV-E eligibility.
  - 1. The child no longer meets the age requirement as specified in Section 301.1.A.1;
  - 2. The child entered the agency's care and responsibility as the result of an entrustment agreement, and the local agency has not obtained a custody order with the required "best interest/contrary to the welfare" language within **180 days** of the date the entrustment was signed;
  - 3. The child entered the agency's care and responsibility as the result of a court order. The court order had the "best interest/contrary to the welfare" language but did not have the "reasonable efforts" language, and the "reasonable efforts" language was not obtained within 60 days of the child's removal.  
Note: The child is ineligible for IV-E foster care for the entire foster care episode;
  - 4. Agency custody has been terminated; or
  - 5. A trial home visit exceeds **180 days** , or a longer period if authorized by a court.
- C. If a child does not pass the initial eligibility determination, IV-E eligibility as a maintenance or non-maintenance case does not exist at any time during that foster care episode.
- D. When the child reenters foster care and the agency's legal responsibility is reestablished, this is a new foster care episode, and a new IV-E eligibility determination must be conducted.

- E. The service worker is responsible for providing the following information to the eligibility worker for the Title IV-E screening (Volume VII, Section III, Chapter B, Section 5.4.4):
1. A copy of the petition and initial court order which contains the reasonable efforts determination and contrary to the welfare statement.
  2. For entrustments or noncustodial foster care placements, a copy of the entrustment agreement or noncustodial foster care agreement.
  3. The child's social security number (SSN) or proof of application for an SSN.
  4. Birth verification.
  5. A description of the situation from which the child was removed, including:
    - a. Person from whom the child was removed;
    - b. Household composition in the removal home, including relationship of each member to the child;
    - c. Date of physical removal or date the child was constructively removed (paper removal);
    - d. Specific information on the parents, including names, birth dates, SSNs, whereabouts, employers' names and addresses, their parents' names and addresses;
    - e. Income of all immediate family members with whom the child was living in the removal home (parents, minor siblings, and stepparent if living in the home);
    - f. School enrollment at the time of removal and, at the time of application;
    - g. Whether the child was a resident of Virginia at the time of the entrustment, commitment, or placement; and
    - h. Whether the child is a citizen of the United States or an alien.
  6. Current financial data related to income and resources available to the child, such as Social Security, Veterans' benefits, other benefits, support from parents, earnings, savings, trust funds, and funds in the special welfare account.

7. Verification of the appropriateness of the placement relative to Title IV-E funding, including:
  - a. Verification of **current and full approval of** a foster home .
  - b. The service worker is responsible for ensuring that **copies of** the agency approved provider compliance form, **the foster home approval letter or certificate and, when applicable, s copy of the child placing agency or children's residential facilitiy license are provided** to the eligibility worker.
  - c. Verification of a residential facility's eligibility for Title IV-E payments consists of **a copy of the facilities license indictaing full approval for the period of time in which the child is in residence and, if a public facility, documentation that the facility's capacity is under twenty-five.**

202.3 IV-E ELIGIBILITY - LEGAL STATUS/JUDICIAL LANGUAGE CRITERIA - The local agency must have legal responsibility for the care and placement of the child. This is achieved by either (1) an initial court order or (2) a voluntary placement agreement that meets the requirements specified in Sections 202.3.A and 202.3.B, respectively.

- A. Court Order Authorizing Initial Removal - The "initial court order" is the first court ruling sanctioning removal of the child (see 202.3.A.1). It may be the order issued taking the child into emergency protective care and any ruling issued as a result of an emergency protective care hearing or any other hearing or judicial order removing a child from the care of a parent or specified relative.

To be IV-E eligible, the initial court order must **checked the appropriate box and/or** include a statement that continuation in the home would be "contrary to the welfare" of the child or that removal is in the "best interest" of the child (see 202.3.A.1). The court order must also indicate **by checking the appropriate box on the court order form and/or including language in the court order** that "reasonable efforts" have been made to prevent removal from the home or that reasonable efforts were not possible (see 202.3 A.2). This is true whether the removal is due to an emergency or non-emergency situation.

Effective March 27, 2000, affidavits and nunc pro tunc orders are not acceptable as amendments or corrections to initial court orders lacking required judicial language. Although federal IV-E rules allow a transcript of the court proceedings as acceptable documentation that the judicial determinations were made at the initial court hearing, this is not an option in Virginia since Virginia's courts do not make transcripts of these hearings.

If the child entered care prior to March 27, 2000, the judicial determination regarding "contrary to the welfare" must result from court proceedings that were initiated no later than **180 days** from the date the child was removed from home. If more than **180 days** have elapsed and there is no judicial determination, the child is ineligible for Title IV-E for the entire stay in foster care.

The court may commit the child based on an abuse or neglect petition, children in need of services (CHINS) or in need of supervision petition, an entrustment, delinquency, or a request for relief. A copy of the court order, with the required language, must be filed in the child's eligibility case folder. If the "reasonable efforts" language was **not included in the original court order and** obtained separately within 60 days of the child's removal, a copy of that court order is also required in the eligibility case record.

1. Placement Not Contrary To The Child's Welfare - For a child to be IV-E eligible, the initial court order authorizing removal of the child must contain a statement that continuation in the home would be contrary to the welfare of the child or that placement in foster care is in the best interest of the child.

If the initial court order does not contain this language, the child is ineligible for Title IV-E for the entire duration of that episode of foster care.

The precise language "contrary to the welfare" does not have to be included in the removal court order, but the order must include language to the effect that remaining in the home would be contrary to the child's welfare, safety, or best interests. Examples of other judicial language that meet the "contrary to the welfare" requirement include:

- a. Removal from the home is necessary to protect the child;
- b. There is no less drastic alternative than removal of the child; and
- c. There is continuing danger to the child should the child remain in his or her present environment.

2. Reasonable Efforts Requirement - For all children who enter foster care through a court commitment, the initial court order should also contain a statement regarding efforts to maintain the family unit and prevent the unnecessary removal of a child from his home.

If not addressed on the initial court order, reasonable efforts must be addressed on a court order issued within 60 days of the child's removal. If the reasonable efforts judicial determination has not been obtained by the sixtieth day, the child is ineligible for the entire episode of care.

If a child entered care prior to March 27, 2000, the judicial determination that reasonable efforts were made to prevent removal or that reasonable efforts were made to reunify the child and family satisfies the reasonable efforts requirement. Absent a court order, there is no alternative source of verification since transcripts are not available in Virginia.

Examples of judicial language that meet the "reasonable efforts" requirement are as follows:

- a. The court finds that the agency made reasonable efforts to maintain the child in his/her own home;
- b. The court finds that the agency made reasonable efforts to prevent removal of the child from the home;
- c. Due to the circumstances presented, there was an immediate danger to the child which would not have been mitigated by the provision of preventive services;
- d. "Reasonable efforts" were not possible due to the emergent nature of the situation; and



- e. The court order indicates that reasonable efforts to reunite the child with a parent are not required because:
  - 1) Residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated, or
  - 2) The parent has been convicted of (a) murder or voluntary manslaughter, or a felony attempt, conspiracy, or (b) solicitation to commit such an offense against a child of the parent, a child with whom the parent resided **at the time of the offense**, or the other parent of the child.
  - 3) The parent has been convicted of felony assault or bodily wounding resulting in serious bodily injury or felony sexual assault of (i) a child of the parent or a child with whom the parent resided at the time of the offense or (ii) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to §16.1-283 (D).
    - a) Serious bodily injury means bodily injury resulting in substantial risk of death, extreme physical pain, protracted or obvious disfigurement, or protracted loss or impairment of a bodily member, organ, or faculty.
    - b) Aggravated circumstances means torture, chronic or severe abuse, or chronic or severe sexual abuse where the victim is (i) a child of the parent or a child with whom the parent resided at the time such conduct occurred and includes the failure to protect a child from such conduct where that conduct or failure to protect (i) demonstrates depraved indifference to human life, or (ii) resulted in the death of a child or serious bodily injury to a child. Chronic abuse or chronic sexual abuse means recurring acts of physical abuse that place the child's health, safety or well-being at risk. Severe abuse and severe sexual abuse may include an act or omission that occurred only once but meets the definition of "Aggravated Circumstances." (§16.1-281 (B) and §16.1-283 (E)).
- B. Voluntary Placement Agreement - To be IV-E eligible, a child's removal may be pursuant to a voluntary placement agreement. A voluntary placement agreement includes **an agreement to temporarily or permanently entrusted the child to the local department of social services** or a noncustodial **foster care** agreement. The agreement must be signed **and dated** by the parent(s) or legal guardian(s) and the local department of social services or other public agency designated by the Community and Policy Management Team (CPMT). A copy of the agreement must be filed in the eligibility case record.

Title IV-E eligibility is limited to **180 days** for children in custody

pursuant to a temporary entrustment agreement. **Temporary entrustment**

**Agreements may continue beyond 180 days if the agreement has been signed and dated by all parties and has been approved by the court prior to the 180<sup>th</sup> day and the court order contains statements indicating that:**

1. The "contrary to the welfare/best interest" requirement is met for foster care eligibility to exist; or
2. The "contrary to the welfare" requirement is met for adoption assistance eligibility purposes.

The signed agreement satisfies the Title IV-E **court order language requirements (contrary to the welfare and reasonable efforts)** for the first **180 days** the child is in foster care. If no action is taken by the court within the 180-day period, the child will be ineligible for Title IV-E foster care at the end of the sixth month. If court action is taken within the 180-day period, continuing eligibility will be based on whether the court order has the proper wording within the established time frame.

202.4 IV-E ELIGIBILITY - AFDC-RELATEDNESS CRITERIA - Title IV-E foster care is available to children who have met the AFDC-relatedness criteria in effect in Virginia on July 16, 1996, but for their removal from the home of a parent or other specified relative. The eligibility worker must reconstruct the "AFDC assistance unit" in the "eligibility month" as defined in Sections 202.1.A and C. and establish that the child would have met the AFDC-relatedness criteria in the eligibility month. AFDC eligibility would exist if: (1) the child was living with a parent or other specified relative and would have met the AFDC-relatedness criteria, or (2) the child was not living with a parent or specified relative in the eligibility month but had done so sometime in the prior **180 days** and would have met the AFDC-relatedness criteria in the eligibility month.

The AFDC criteria that must be met for Title IV-E eligibility are described below. Eligibility exists if each of the members of the assistance unit met all of the applicable AFDC-relatedness criteria for any portion of the eligibility month, except if a parent participated in a strike on the last day of the month, or if income or resources cause ineligibility. The applicable criteria (age, deprivation, etc.) will vary for each member of the assistance unit.

The service worker will provide the best available information to substantiate the situation from which the child was removed. (Refer to Chapter 301 for additional information concerning the AFDC categorical requirements.)

- A. Age/School Requirement - A child may receive IV-E assistance until the age of 18, regardless of school attendance. If age 18, the child must be enrolled in a secondary school or vocational/technical school of secondary equivalency and expected to complete the high school or vocational/technical program prior to or in the month of his or her nineteenth birthday. (Refer to Sections 301.2 and 301.3.)
- B. Citizenship/Alienage - The child must be a citizen of the United States or a qualified alien as defined in Section 301.7 A.2.a, b, and d. The term "qualified alien" includes, but is not limited to, the following:
  - 1. A legal alien with permanent residency;
  - 2. An alien who is granted asylum;
  - 3. A refugee admitted under federal law;
  - 4. An alien whose deportation is being withheld;
  - 5. A Cuban or Haitian entrant; or
  - 6. An alien or the child or parent of an alien who has been battered or subjected to extreme cruelty in the United States.

Section 301.7 A.2.c, which establishes a five-year ineligibility period except for specified immigrants, applies only when a foster or adoptive child is a qualified alien who is placed with a foster or adoptive parent

who is not a qualified alien. Appendix I to Chapter 301 provides additional information for use in verifying that this requirement is met. A copy of the document used to verify the child's alien status must be filed in the eligibility record.

The requirement to declare the citizenship/alienage status of a child in foster care is met upon completion of the Title IV-E Foster Care and Medicaid Application (032-03-636) by the service worker. (Refer to Section 301.7.)

- C. Specified Relative/Removal Criteria - The child must have lived with and been removed from a specified relative during the eligibility month or within **180 days** of the eligibility month. The worker must determine the date the child last lived with the specified relative from whom he or she was removed.
1. Living With A Specified Relative - The specified relative with whom the child most recently lived and was removed from must meet the definition of a specified relative in the AFDC Program (**Refer to Section 301.5.A.**).
- a. The term "specified relative" includes the following relative groups:
- 1) A blood relative;
  - 2) A stepmother, stepfather, stepbrother, or stepsister;
  - 3) A relative by adoption following entry of the interlocutory order;
  - 4) A relative by marriage; and
  - 5) A relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child.
- b. The term "living with" includes the following circumstances:
- 1) The child who is residing with a parent or other specified relative in a residence maintained as a home. If the assistance unit is homeless, the lack of a physical structure or address does not affect eligibility.
  - 2) The child who is born to a mother who was a hospital patient or a prison inmate at the time of birth. In this situation, the hospital or prison is the home where the child resided and from which the child was removed. This is true whether the child is placed in foster care awaiting the mother's release or when parental rights are terminated directly after birth. The inability of the child to return to the mother during her prisoner or patient status (or for any other reason) has no bearing on the child's eligibility for Title IV-E foster care.

For additional information on the AFDC living with/specified relative requirement, refer to Section 301.5.

2. Removal Requirements - The specified relative and removal requirements are interrelated. The specified relative with whom the child most recently lived (during the eligibility month or within **180 days** of the eligibility month) is considered the relative from whom the child was removed. This is considered the removal home.
  - a. A removal from the home may be physical or constructive. In either case, it must occur pursuant to:
    - 1) A voluntary placement agreement entered into by a parent/specified relative which leads to a "physical" or "constructive" removal of the child from the home; or
    - 2) A judicial order for a physical or constructive removal of the child from a parent/specified relative.
  - b. Physical Removal - A physical removal is a removal from the home of a parent or other specified relative when the court action or voluntary placement agreement results in the removal of the child from the custody/care of the parent or other specified relative while the child was living with the parent/specified relative in the eligibility month or within **180 days** of the eligibility month. Three examples of a physical removal are explained below:

Child Removed From A Specified Relative

The parent's home is considered the removal home when a child has been living with a parent (when the parent has been maintaining the home for the child). If the parent makes arrangements for someone else to provide the daily care and supervision of the child and placement occurs in less than **180 days**, the child is still considered to be removed from the parent.

Example 1: A child was living with his mother at the time the agency removed him from the mother's home on December 12, 2001. The mother's home is the removal home and December 12, 2001, is the removal date.

Example 2: A child has been living with his grandmother since his birth. The grandmother approaches the agency for help in caring for the child. The agency petitions for custody on June 20, 2001, but decides to leave the child with his grandmother as a relative placement. On October 7, 2001, the grandmother is no longer able to care for the child and the agency removes the child from the grandmother's home and places him with his aunt as a relative placement. The grandmother's home is the removal home and June 20, 2001, is the removal date.

Child Living With A Non-Relative

Example 3: The child had been living with friends for two months preceding the time police removed her on May 13, 2000. The agency filed a petition on May 14, 2000, and placed the child in a foster home. Prior to living with her friends, the child was living with her parents until January 3, 2000. She subsequently went to live with her grandparents until March 14, 2000. On that date, she went to live with her friends. The grandparents' home is the removal home (most recent specified relative with whom the child lived) and May 14, 2000, is the removal date.

- c. Constructive Removal - A constructive removal occurs in the following three situations:

- 1) Court action or a voluntary placement agreement removes custody of a child from the parent even though the child resides in the home of another relative in whose care the child had been left by the parent. As long as the child has resided with the parent within **180 days** of initiation of court action the "constructive removal" requirement is met.

Example 1: - The child was living with his father until the father was incarcerated on December 22, 2000. At that time, the child went to live with his older sister and her husband. The agency petitioned for custody on December 23, 2000, but decided to leave the child with his sister as a relative placement.

- 2) The child is removed from the home of a parent when the parent and the child reside in a relative home and the parent leaves the home, leaving the child in the home of the relative. As long as the child has resided with the parent in the home in the last **180 days** and the court action or voluntary placement agreement results in the removal of the child from the custody of the parent(s), the "constructive" removal from the parent's home meets the removal requirement.

Example 2: - The child resides in a three-generation household in which the mother leaves the home on May 4, 2001. The grandmother contacts the local agency on September 18, 2001, and the agency petitions the court on September 28, 2001, within **180 days** of the date the child lived with the mother. The grandmother's home is approved as a foster home, and the child continues to reside in the home in foster care. The mother's home is the removal home and, September 28, 2001, is the removal date.

- 3) The child is living with a non-related caretaker or was homeless at the point the agency files a petition for custody. However, the child is removed from the home of the specified relative with whom the child last resided. The child must have lived with a specified relative within **180 days** of initiation of court action or signing of a voluntary placement agreement pertaining to the removal from the specified relative. If not, eligibility for Title IV-E is denied based on not meeting the specified relative requirement.

Example 3: A 14-year old is thrown out of her father's home on February 20, 2001, when she informs him that she is pregnant. The child moves in with her boyfriend's parents that same day. Three months later, on May 24, 2001, the agency files a petition for custody and the child is placed in a foster home. The father's home is the removal home and May 24, 2001, is the removal date.

- d. Removals That Do Not Meet IV-E Requirements - A child is not considered to be removed from the home of a specified relative and Title IV-E eligibility does not exist when:

- 1) Court action was initiated, or a voluntary placement agreement was signed, for purposes of **removing the child from the home**, but the child remains in that home; or
- 2) A child previously denied Title IV-E due to court action not resulting in the child's physical or constructive removal from the home of the specified relative is moved from the home of that specified relative foster parent and moved into another placement; or
- 3) A child has not lived with a specified relative within **180 days** prior to the initiation of court action or signing of a voluntary placement agreement.

- D. Deprivation - The child must be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, or unemployment of a parent. In situations where one or both parents' whereabouts are unknown, the child is considered to be deprived. (Refer to Section 301.4 for additional information.) The removal home is the home that determines if the child met the deprivation criterion.

Deprivation exists in the following situations:

1. Death of a legal parent. If not documented, the parent must be considered as absent (Section 301.4 A);

2. Court-decreed divorce and one of the parents is not living in the removal home with the child (Section 301.4 B.1.a);
3. Unestablished paternity (Section 301.4 B.1.c);
4. Incarceration of a legal parent (Section 301.4 B.1.d);
5. Deportation of a legal parent (Section 301.4 B.1.b);
6. Desertion by a legal parent: The parent is out of the home and is not providing support (Section 301.4 B.1.f);
7. Separation: One parent is out of the home for any reason other than those listed above, except military service (Section 301.4 B.1.g);
8. Incapacity: Both parents are in the home, and one of the parents has a documented disability or an incapacity expected to last at least 30 days (Section 301.4.C);
9. Unemployment or underemployment: Both parents are in the home, neither is incapacitated, and the assistance unit is in financial need. (Section 301.4 D);
10. Court conviction of a legal parent sentenced to unpaid public work or unpaid community service while living in the removal home (Section 301.4.B.1.e);
11. Single parent adoption (Section 301.4.B.1.h); and
12. Single parent by artificial insemination, provided the father was an anonymous donor (Section 301.4.B.1.i).

If the child was deprived and met other eligibility criteria at any time during the eligibility month, eligibility exists for the entire month. If the removal home was the parents' home, deprivation will always be based on the situation in the parents' home.

Example 1: A petition to remove the child from his home was filed in January, at which time the child was living with his mother. The child's parents were separated for seven months but reunited on January 29. Since both parents are in the home during the eligibility month, the income and resources of the parent who entered the removal home on January 29 must also be included in the financial determination as well as in evaluating deprivation. Although the case is found IV-E eligible, payments are not reimbursable during any periods when the child is not deprived.

If the removal home was a relative other than the parent, deprivation is based on the absence of the parent(s) from that relative's home, regardless of the situation in the parent's home.



Example 2: The child was living with and removed from a specified relative **as defined in Section 301.5.A.** other than a parent when court action was initiated. The relative has no financial responsibility for the child, so only the income and resources of the child will be considered in determining need for AFDC. The determination of deprivation would be based on the absence of the parents even though they may be united elsewhere.

- E. Residence - The child must be a resident of Virginia, regardless of the residence of the child's parent(s). (Section 301.6)
- F. Resources - Real and personal property must be considered in determining the child's eligibility for AFDC. If the countable value of property owned by the AFDC assistance unit in the removal home totals more than \$10,000, the child is ineligible for Title IV-E. Property is countable only if there is clear entitlement to dispose of it. Refer to Section 303 for additional information on determining whether property is a countable resource and, if so, the countable value.

Exempt resources include, but are not limited to, the following:

1. The home and its contents;
  2. A motor vehicle with an equity value of \$1,500 or less;
  3. Real and personal property owned by an SSI recipient other than the child entering foster care;
  4. Income-producing farming and business equipment;
  5. Burial plots, one per assistance unit member;
  6. Bona fide funeral agreements with an equity value not to exceed \$1,500 per assistance unit member; **and**
  7. Disregarded resources listed in Section 303.4.
- G. Income - The child must be in financial need. Actual or estimated income received in the eligibility month is used in determining AFDC income-relatedness. (Refer to Section 305.1 B for procedures on computing monthly income.) Any countable income directly available to the child is deducted from the individual requirement items in determining the amount of payment. Income being refunded to the agency is considered in determining need but not in establishing the amount of payment.

Countable income available must not exceed 185 percent of the AFDC income standard based on the size of the AFDC assistance unit and the appropriate locality grouping. (Refer to the Maximum Income Chart, Appendix I to Section 305, for the 185 percent need amounts). If the income of the assistance unit is equal to, or less than, the maximum income level, the child is income eligible/reimbursable.

1. Assistance Unit Composition In The Initial Eligibility Income Determination - The eligibility worker must determine the members of the AFDC assistance unit in the removal home to determine the unit size and the total income that is to be counted as available in determining Title IV-E eligibility of the child entering care.
  - a. Child Removed From A Parent
    1. If the removal home was the parent's home, include the income of the child entering foster care, the parent(s), and siblings residing in the removal home with the child; and
    2. If a stepparent is in the removal home, the worker must determine if a portion of the stepparent's income must be deemed to the AFDC assistance unit (see 305.4.F).
  - b. Child Removed From A Non-Parent Specified Relative - If the removal home was the home of a specified relative other than the parent, include only the child's income and any income of the child's minor siblings (under age 18) residing in the removal home with the child.

The child's AFDC assistance unit must pass the AFDC 185 percent income standard screening for financial need to exist under the AFDC-relatedness criteria.
2. Countable Earned Income - Earned income is income from wages, salaries, and/or commissions, or through profit from self-employment. Sources of countable earned income include, but are not limited to:
  - a. Wages, salaries, tips;
  - b. Self-employment/business/farm income;
  - c. Income from property;
  - d. Severance pay;
  - e. Vacation pay;
  - f. Jury duty; and
  - g. Sick pay through an employer.
3. Countable Unearned Income - Unearned income is income received by an individual for which no service is performed. Sources of countable unearned income include, but are not limited to:
  - a. Child support (minus the first \$50 paid per month);
  - b. Disability, retirement, and pension payments;

- c. Cash contributions from relatives, friends, or organizations for needs included in the AFDC income standard;
  - d. Income deemed from a stepparent or an ineligible alien parent (refer to Section 305.4.F for deeming procedures);
  - e. Veterans' benefits;
  - f. Social Security benefits; and
  - g. Unemployment compensation.
4. Exempt Earned And Unearned Income - Certain types of earned and unearned income are exempt in determining whether the child meets the financial need requirement for AFDC eligibility. The following income is not counted in determining AFDC income-relatedness:
- 1. The gross monthly earnings received by a child from a program administered by the Workforce Investment Act (previously the Job Training Partnership Act);
  - 2. The gross monthly earnings received by a child who is a student;
  - 3. Money received as reimbursement, money that belongs to another person, and up to \$30 per calendar quarter received for special occasions, as specified in Section 305.2; and
  - d. Income specifically disregarded in Section 305.4.A. This includes, but is not limited to:
    - 1) Supplemental Security Income (SSI);
    - 2) Temporary Assistance for Needy Families (TANF);
    - 3) Foster care and adoption assistance payments;
    - 4) Food programs, such as, food stamps, school meal programs, Women, Infants, and Children (WIC);
    - 5) Educational loans or grants administered by the U. S. Secretary of Education; college work study programs; scholarships, loans, grants, Veterans Administration (VA) educational benefits used to pay school-related expenses; student financial assistance received under the Higher Education Act, and money received under the Carl D. Perkins Vocational and Applied Technology Education Act for attendance costs;
    - 6) Training allowances provided through vocational rehabilitation programs;
    - 7) Payments to Domestic Volunteer Service Act of 1973 (VISTA) volunteers;

- 8) Unearned income received by a child from Job Corps;
  - 9) Income tax refunds (including Earned Income Tax Credit payments and refunds); and
  - 10) Bona fide loans.
5. Lump Sum Payments - A lump sum payment is a nonrecurring or advance payment not earmarked for a specific purpose. Examples of unearned lump sum payments are retroactive Social Security and Worker's Compensation benefits, life insurance settlements, personal injury awards, and lottery winnings.

A lump sum received prior to the eligibility month must be evaluated in accordance with AFDC resource policy on allowable reserves. A lump sum received by a required assistance unit member during the eligibility month is treated as income in the month received. No period of ineligibility is to be established. If the child was receiving AFDC (not TANF) when the period of ineligibility was established and the period of ineligibility is still in effect in the eligibility month, the child is ineligible for IV-E foster care.

6. Verification Of Income Using Best Available Evidence

- a. The worker must use the best available information to determine countable income. When verification is provided in the form of a document, such as pay statements or W-2 forms, file a photocopy of the document in the eligibility case record. In the absence of documentary evidence, available evidence may consist of the parent's statement and/or the worker's knowledge and observations about the family situation. The case record must be thoroughly documented as to the basis for the worker's findings.
  - b. If the income of the child's family is unknown and a determination of potential AFDC-relatedness cannot be made, the worker must examine other available information sources, such as ADAPT, APECS, MMIS, VEC, and SVES. If these sources are used, the worker must note in the case record that the sources were accessed to verify income and resource information.
  - c. If the parent provides a verbal statement or declaration of income and resources, this is acceptable evidence if no other documentation is available. The parent's statement must be recorded and maintained in the eligibility case record.
- H. Social Security Number - Although providing a social security number or proof of application for a social security number is not a condition of eligibility for Title IV-E, in order to be enrolled for Medicaid coverage this condition must be met. See Volume XIII, Subchapter M0240, of the Medicaid Manual.

202.5 ASSIGNMENT OF SUPPORT RIGHTS - As a condition of eligibility, the rights to support monies received on behalf of the child are automatically assigned to the state upon payment of Title IV-E assistance. All Title IV-E cases except those in which deprivation is based on the death of both parents must be referred to the Division of Child Support Enforcement **unless "Good Cause" is claimed (see Section 202.5 C).**

A. Referral To Division Of Child Support Enforcement (DCSE)

The local agency is responsible for reporting to the Division of Child Support Enforcement all information necessary to aid in securing support on behalf of a Title IV-E child. The service worker will provide all pertinent information on support payments and absent responsible relatives, if available, to the eligibility worker on the Absent Parent/Paternity Information Form (032-03-501). The eligibility worker is responsible for reporting this information to the Division of Child Support Enforcement. The information must be reported via the MAPPER 501 system for cases approved for maintenance payments.

The referral to DCSE for a non-maintenance child must be handled in accordance with procedures in Section 202.14.B.

B. Cooperation With DCSE

Policies concerning responsibility of parents or specified relatives other than the parent to cooperate with DCSE and the agency's handling of good cause claims are applicable in Title IV-E cases. However, failure or refusal to identify a parent or otherwise cooperate in obtaining support does not affect a Title IV-E child's eligibility for assistance.

C. Determination Of Good Cause By Service Worker

A parent for whom good cause has not been found to exist will be subject to support enforcement collection activities and will be required to make support payments.

In cases where the foster care plan is to return the child to live with his parent(s), good cause may exist due to possible emotional harm to the child that could result from interference of support collection efforts in reuniting the child with one or both parents. The service worker will complete the Absent Parent Deprivation/Paternity Information Form (032-03-501) with the appropriate good cause information for each parent. The form will be sent to the eligibility worker who will transmit the information to DCSE.

The good cause finding is to be evaluated at each full eligibility/-reimbursability redetermination by the service worker who will advise the eligibility worker whether the good cause finding continues to be appropriate. If a change in the foster care plan has occurred such that the plan is no longer to return the child to the parent(s), the service worker is to advise eligibility staff, in writing, that good cause no longer exists for that parent. The eligibility worker will document the case record and transmit the notification to DCSE. If a determination changes from a non-good cause finding to a good cause finding, the service worker should complete the Good Cause Determination form (032-03-035) and forward it to the eligibility worker.

- D. Notice Of Changes Affecting Child Support - As soon as there are changes in the status of the foster care case or in the situation of the absent parents, the service worker must notify the eligibility worker in writing. The eligibility worker must notify the Division of Child Support Enforcement. Changes in the status of a foster care case or the absent parent's situation may include the following:
1. The child leaves foster care;
  2. Good cause no longer exists because the service plan goal for the child changes from the goal of return to parents to another goal;
  3. Parental rights are terminated or the parent(s) have signed a permanent entrustment agreement;
  4. The child is emancipated or becomes age 18;
  5. The whereabouts of the child are unknown;
  6. Death of the child; and
  7. The child is returned to a parent.

202.6 INITIAL IV-E REIMBURSABILITY DETERMINATION - Once a child has been determined IV-E eligible, four additional criteria must be evaluated to determine the reimbursability status of the case, that is, whether the case is a maintenance or non-maintenance case.

Initial Reimbursability Criteria - The IV-E reimbursability criteria that must be met once a child has been determined IV-E eligible are as follows:

- A. Placement - The child must reside in a IV-E reimbursable placement (Section 202.7);
- B. Reasonable Efforts Judicial Determination - The reasonable efforts judicial finding should be obtained in the initial court order (Section 202.3.A.2). If the initial court order does not include a reasonable efforts finding, there must be a court order within 60 days of the child's removal that contains the judicial determination that:
  - 1. Reasonable efforts were met to prevent removal of the child;
  - 2. The situation precluded reasonable efforts; or
  - 3. That reasonable efforts were not required;
- C. Voluntary Placement Judicial Determination Required Within 180 days - For children in the agency's care under a voluntary placement agreement, best interest/contrary to the welfare judicial language must be obtained in a court order within **180 days** of the signed **and dated** agreement. Otherwise, the child's IV-E eligibility cannot exceed **180 days** from the date the agreement is signed **and dated**(Section 202.3.B); and
- D. Consideration Of SSI Benefits - If a child is receiving SSI, a determination must be made as to whether it is more advisable for the child to receive SSI or IV-E. (Section 202.8).

202.7 IV-E REIMBURSABILITY - PLACEMENT - Title IV-E is available for an eligible child in a IV-E eligible facility. IV-E maintenance payments may be paid in any month the child is otherwise IV-E reimbursable and is placed in one of the following types of placements. Temporary absences from the placement for reasons such as hospitalization, education or training, a vacation or a visit do not affect reimbursability.

The local department of social services must have responsibility for placement and care of the child. The only exception is another public agency, designated by the community policy and management **team that** has entered into a non-custodial agreement with the parents/guardians where legal custody remains with the parents/guardians, and only if the local department of social services has **a written and signed non-custodial foster care** agreement with the other public agency, which is in effect during the child's placement period **and is in compliance with all foster care requirements as identified in the Foster Care Services Manual, VOLUME VII, SECTION III, CHAPTER B, (Sections: 3.2.1; 3.2.2 and 3.5.5)**

The court order, voluntary placement agreement, or non-custodial agreement must indicate that the agency has placement and care responsibility. The placement must be fully licensed or approved.

Exception: If a court has chosen a placement with a specific provider without consideration of the agency's placement recommendation, the placement is not reimbursable, and the case must be carried as a IV-E non-maintenance case during the period the child is in the nonreimbursable placement. The service worker is responsible for identifying cases in which the court has assumed placement responsibility.

- A. Foster Family Homes - The home must meet foster family home standards established by the State Board of Social Services and must be approved by the local department of social services prior to placement of the child, unless the home is approved by a licensed child-placing agency. Refer to Section 202.4.B regarding eligibility restrictions applicable when the foster parent is an alien. The foster parent's alien status must be determined using Immigration and Naturalization Service documents provided by the service worker.

Foster family homes include the following types of homes:

1. Regular Foster Home - This is a foster home approved and being paid to provide basic maintenance, supervision, and parenting.
2. Relative Foster Home - This is a foster home where a child is placed with a relative. The home must fully meet foster home standards as long as the child is in foster care. Children may be placed with a relative on an emergency basis for up to 30 days as long as standards for emergency approval are met. Longer term placements require full approval of the home.

Title IV-E funding cannot be used during the 30-day emergency approval period of a relative foster home.



3. Specialized Foster Home - This is a regular foster family home that has been approved to receive "special needs/specialized" payments in addition to the maintenance payment. These homes are agency approved foster homes where the agency may pay an additional service payment due to the difficulty of care of a specific child. The additional payment is paid from Comprehensive Services Act state pool funds.
4. Therapeutic Foster Home - This is a trained foster parent, providing care through a licensed child-placing agency or local agency's defined foster care therapeutic program, who may receive an additional payment for added daily supervision required for children who have identified emotional/behavioral, developmental, physical or medical disorders. Title IV-E funds may be used to reimburse the costs of daily supervision provided as part of a therapeutic foster home program for IV-E eligible children identified as needing therapeutic foster care.
5. Child-Placing Agency Foster Home - This is a foster family home approved by and provided through a licensed private non-profit child-placing agency, which does not require local agency approval. Title IV-E payments cannot be made to a for-profit child-placing agency

**Exception: If the agency is fully licensed and the foster home is fully approved, Title IV-E Maintenance Payments may be made directly from the local department of social services to the foster home. Title IV-E Maintenance payments may not be made to the for-profit agency for subsequent distribution to the foster home.**

6. Verification Of Placement In A Foster Family Home - The eligibility worker must verify that the child is in a currently **fully** approved foster home. Verification of the foster home approval will be obtained from copies of the Compliance Form for Agency Approved Provider (032-02-139A), **the foster home approval letter or certificate and, when applicable, a copy of the child placing agency's license** which will be sent by the service worker to the eligibility unit every time an initial approval or reapproval of a foster home is completed. These forms should be kept in **the providers file, the child's file, and a copy should be kept in the eligibility file and should be referred to each time this verification is needed.**

In addition, a partial review must be completed every time a IV-E foster care child changes placement. The eligibility worker must verify that the child **has been moved to a currently fully** approved foster home. Verification of the foster home approval **and reapprovals should be obtained from the service worker.**

For each placement, the eligibility case record must show the begin and end dates of the placements and the foster home approval begin and end dates. **Agency Approved Provider Regulations (Section 2.4.D.) define the expiration date of the foster home approval period to be the last day of the month two years following the date the home was approved.** Agencies should maintain this information in one place in the eligibility record to provide a clear history of the child's placements while in care.

- B. Children's Facilities - The child care institution in which the child is placed must be a private child care institution (nonprofit or for-profit), or a public child care institution with a capacity of 25 children or less.

The institution must be fully licensed by the state in which it is located, and the dates the license is in effect must be indicated on the license.

Verification Of Placement In A Residential Facility - The service worker is responsible for obtaining a copy of the institution's license and documentation of the room and board rate agreed upon between the agency and the facility, the most recent approval date for the room and board rate, its licensing status, and its capacity.

- C. Treatment Foster Care Program Homes - This is a licensed child-placing agency or public agency meeting licensing standards and certified by the Department of Medical Assistance Services. This type of placement may be eligible for Medicaid reimbursement for targeted case management, which does not cover maintenance. Therefore, IV-E could be used for maintenance in non-profit child-placing agencies for eligible children.

**Exception: See Section 202.7 A. 5.)**

- D. Out-Of-State - Placement must be handled in accordance with Interstate Compact procedures prior to the child actually being placed in another state. Title IV-E payments cannot be made without prior approval by the Interstate Compact Unit.

- E. Non-Reimbursable Placements - The following are not IV-E reimbursable placements:

1. Boot camps and forestry camps;
2. Public group care facilities with more than 25 children;
3. Training schools;
4. Secure, locked facilities operated primarily for the detention of juvenile delinquents; and
5. Foster homes paid through a for-profit child-placing agency.

**Exception: See Section 202.7 A. 5.)**

Note: A child placed with his parents is not eligible for Title IV-E maintenance payments but may be eligible for Temporary Assistance for Needy Families (TANF) during a trial visit if the agency retains custody. Refer to Section 202.14.A.2.b.

202.8 CONSIDERATION OF SSI BENEFITS - A child may receive Title IV-E foster care and SSI benefits concurrently. However, the SSI payment is reduced dollar for dollar by the amount of the IV-E reimbursement. In high-cost placements, this may have the effect of discontinuing the child's SSI benefits, which may not be in the child's best interest. If a child is in a low-cost placement, it may be appropriate to choose SSI benefits and classify the child as "eligible, not reimbursable." If the child is placed in a high-cost facility that is IV-E reimbursable, the service worker should request the local Social Security office to suspend the child's SSI benefits, thus rendering the child's costs for board and supervision reimbursable under IV-E.

The eligibility and service workers should work together in determining which is more advantageous to the child. SSI funding may be more appropriate than Title IV-E, regardless of the cost of placement, when:

- A. The child is near the point of adoption;
- B. The child is near the age of emancipation and being prepared for independent living; or
- C. The child is near reunification with a low-income family.

Note: Care should be exercised to assure that the child's SSI benefits are not suspended for more than 12 months, as this would cause the child to lose SSI eligibility and force the child to undergo a full redetermination of SSI eligibility.

202.9 ONGOING IV-E REIMBURSABILITY DETERMINATION - Reimbursability of Title IV-E foster care cases must be redetermined whenever a change occurs, upon notification by DCSE of child support collected, and at regular intervals, not to exceed 12 months, for both maintenance and non-maintenance cases.

A child may lose and regain IV-E reimbursability from one month to the next, depending upon changes in deprivation, the child's income and resources, the child's placement, or judicial review requirements. The loss of IV-E reimbursability does not deprive the child of future IV-E reimbursability once the reimbursable criteria are again met, nor does it affect the child's IV-E eligibility for claiming administrative reimbursement.

The service worker must provide information on the child's current situation that could aid the eligibility worker in determining continuing reimbursability (see Volume VII, Section III, Chapter B, Section 10.2). If the service worker is unable to or does not provide the needed information, the eligibility worker must work with the service worker to secure the required information in order to establish continuing eligibility.

The eligibility worker will complete the Title IV-E Foster Care and Medicaid Initial Evaluation form (032-03-635) to substantiate eligibility factors. To continue to be IV-E reimbursable, the child must continue to meet all of the requirements in A through E below and must not meet any of the conditions listed in Section 202.2.B.

- A. Placement - The child is in a fully approved or licensed IV-E reimbursable placement. **A conditional license meets the requirement for full licensure. A provisional license does not meet the requirement.** Determine if current placement is in an approved foster family home, a licensed private nonprofit or for-profit children's residential facility, a non-profit licensed child-placing agency, or a public institution serving 25 children or less. If the child is not in an approved placement, as specified in Section 202.7, evaluate the child for continuing eligibility as a non-maintenance case.
- B. Deprivation - Deprivation must continue to exist in the removal home. Types of deprivation are discussed in Section 301.4. In determining IV-E reimbursability, a child may also be deprived due to termination of parental rights (TPR). For any months deprivation does not exist, the child is not IV-E reimbursable for those months. Once deprivation exists again, the child's IV-E reimbursement may continue if all other criteria are met.

The deprivation factor does not have to be the same deprivation factor that existed at the time of initial IV-E eligibility.

Example 1: The removal home was the mother's home, and deprivation was based on continued absence due to separation. At redetermination, if it is established that both parents are now in the removal home, deprivation can only exist if the parents meet the unemployment or incapacity deprivation criteria.

Example 2: A child was initially removed from a single parent, and for initial eligibility deprivation was based on absence. At review, it is learned that the parents are reunited. Neither parent is disabled. To determine the current deprivation status, add the parent that has entered the home to the assistance unit, verify the parent's current income and screen the case at 185 percent of need.

- C. Resources - The IV-E child's countable resources must not exceed \$10,000. Real and personal property other than the reserve items specified in Section 303.2, including the balance of the child's special welfare account, must be considered in determining the child's ongoing Title IV-E reimbursability. Property is countable only if the child has clear entitlement to dispose of it. Note: The resources of the **minor child of a foster care child** must be evaluated separately from the resources of the foster care child. (Refer to Section 202.13.C.)

Retroactive SSI of more than **180 days'** benefits must be deposited in a dedicated account. These funds are an exempt resource until depleted. Retroactive SSI benefits not placed in a dedicated account are a countable resource, unless the child continues to receive SSI. If the individual is no longer eligible for SSI when the lump sum is received and the lump sum is not placed in a dedicated account, the SSI retroactive payment is totally exempt in the month of receipt and the month following receipt. Any amount remaining thereafter is a countable resource.

In any month that real and personal property other than the SSI dedicated account or the reserve items specified in Section 303.2 total more than \$10,000, the child's maintenance is not reimbursable and must be paid from non-IV-E funds.

- D. Income - The following procedures are to be used to determine ongoing reimbursability and payment. Only income being received by the child, including DCSE collections and any money paid on the child's behalf that is refunded to the program, is counted in determining whether reimbursability exists in the payment month.
1. Compare the child's total countable income received or anticipated to be received in the payment month to 185 percent of the child's foster care rate for that month. If countable income does not exceed 185 percent of the child's foster care rate, the child meets income requirements for IV-E ongoing reimbursability. If countable income exceeds 185 percent, the child's maintenance is not reimbursable until the child's income is again equal to or less than 185 percent of the child's foster care rate and all other requirements of reimbursability are met.
  2. When comparing income to 185 percent of the foster care rate, the total gross countable income includes gross earned and unearned income received directly by the child or being refunded to the agency. The disregards in Section **202.4.G.4.** are applicable when evaluating total gross countable income.
    - a. Unearned Income - Recurring unearned income, such as Social Security benefits, cash contributions from a putative father or nonlegally responsible relative, etc., should be paid to the agency as a refund to the program. If the unearned income is being paid to the agency, the income is not reflected in the amount of payment to the foster parents or the institution. Income actually being received by the child is deducted from the amount allowed for individual requirement items.

- b. Earned Income - Earnings of the child that are not disregarded in the maintenance payment computation will be verified and projected for each subsequent month until a change is reported or the next redetermination, whichever occurs first.
- c. Lump Sum Income - A lump sum payment is a nonrecurring payment not earmarked for a specific purpose. Examples of lump sum payments are retroactive Social Security benefits, stock dividends, and life insurance settlements. The receipt of a nonrecurring lump sum payment by or on behalf of the child (excluding retroactive SSI benefits in a dedicated account) must be reflected as income in the month received and for future months when the lump sum, plus other net countable income, exceeds 185 percent of the applicable foster care rate in the month of receipt.

Divide total income (lump sum, plus net countable income) by the applicable foster care **maintenance rate (i.e.; the maintenence rate applicable to the foster home or the negotiated maintenance rate applicable to the group home or residential facility)** to determine the number of months that the child will be **nonreimbursable** for Title IV-E maintenance payments. The first month of ineligibility for maintenance assistance will be the month of receipt of the lump sum. The eligibility worker must change the case status to non-maintenance in VACIS and advise the service worker of the change in reimbursability status and the duration of the period of ineligibility.

In instances where the lump sum is not reported in the month received, the period of ineligibility will begin the month in which the lump sum is discovered.

- d. Receipt of SSI Benefits - A child's Title IV-E eligibility is not affected by receipt of SSI benefits. When assistance is received concurrently from both programs, the SSI payment will be adjusted by the Social Security Administration to reflect Title IV-E payments received. The SSI payment is not considered in the Title IV-E eligibility determination or benefit calculation.
3. The amount of the child's income (actual or estimated) must be determined based on the best available information, e.g., information provided by the service worker or obtained by the eligibility worker through available sources. The case record must be documented as to the income source, amount received monthly, and must show the financial eligibility calculation.

- E. Ongoing Judicial Determinations - In order for a child's maintenance payments to be IV-E reimbursable, there must be a periodic judicial determination that reasonable efforts have been made toward reunification or, if the goal is other than for the child to return home, to finalize a permanent placement for the child. The judicial determination must be made on a case-by-case basis and so stated in the court order. An administrative panel review will not meet this requirement.
1. Judicial Determination Required Annually - The first ongoing judicial determination must be made no later than 12 months from the date on which the child is considered to have entered foster care and at least once every 12 months thereafter, following the last judicial determination, stating reasonable efforts are being made to finalize the permanency plan. Annual judicial determinations are also required for children in permanent foster care.
    - a. Date The Child Is Considered To Have Entered Foster Care - The date the child is considered to have entered foster care is the date of a judicial finding of abuse or neglect (dispositional hearing date) or 60 days from the date the child is removed from home, whichever is earlier. The date the child is considered to have entered foster care can be no later than 60 days after the date the child is removed from home.
    - b. Date The Child Is Removed From Home - In a physical removal, this is the day the agency physically removed the child from the home of a specified relative. In a constructive removal, the removal date is the date of the first judicial order removing custody from the appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties.
  2. Verification Of Annual Judicial Determinations - The eligibility worker is responsible for setting an alert to verify that the judicial determination requirement is met. If a judicial determination is not made within the required time frame, the child's maintenance is nonreimbursable for Title IV-E maintenance assistance beginning the following month until a judicial determination is made. Before changing the case to non-maintenance, the eligibility worker must verify with the service worker that the determination has not been made. During the months of ineligibility, the child's maintenance must be paid from non-Title IV-E funds. A retroactive claim cannot be made for IV-E reimbursement of the months during which the judicial determination was overdue. **Refer to Appendix 3 for a summary of the types of Reviews and Hearings required for foster care cases and related time frames.**
- F. Child Support Enforcement - Although it is not a reimbursability requirement, a good cause finding which is subject to change must be reevaluated at each redetermination. The eligibility worker is responsible for notifying DCSE at each redetermination on the status of the good cause claim. The service worker is responsible for evaluating whether good cause exists.

202.10 APPLICATION AND ENTITLEMENT - The basic requirements regarding application for Title IV-E, both maintenance and non-maintenance cases, are as follows:

- A. Method Of Application - The Title IV-E Foster Care and Medicaid Application (032-03-636) must be used for IV-E referrals made by service workers in the local department of social services. Services staff will refer a child for screening within 10 calendar days of the date of the court commitment order, or the date the voluntary entrustment agreement is signed, or the date the noncustodial agreement is signed. The application is to be filed in the eligibility case record.

An application is required when a referral is made by another agency. The Title IV-E Foster Care and Medicaid Application (032-03-636) and related forms needed to meet program requirements and establish eligibility are to be made available to other agencies, as necessary. The placing agency must also provide the eligibility worker with a copy of the noncustodial agreement and court order, if any, which are to be filed in the eligibility case record. Other agencies should be advised of the 10-day referral time frame.

- B. Date Of Application - The date of application is the date of the court commitment order or the date the voluntary entrustment agreement is signed, or the date the noncustodial agreement is signed.
- C. Time Standard For Processing The Application - A decision of eligibility must be made within 45 calendar days from the date of receipt of the referral for screening. Foster care staff is responsible for providing the documentation to establish eligibility. If this requirement is not met, the eligibility worker must advise the service worker, in writing, of the information that has not yet been provided. The eligibility and services supervisors must be provided with a copy of this written reminder for monitoring purposes.

Placing agencies other than the local department are to be advised of the need to provide documentation to substantiate eligibility and of the 45-day application processing time frame.

- D. Disposition Of Application - An application may be either approved or denied. A finding of ineligibility during the initial eligibility screening process will result in a permanent denial for the duration of that episode in foster care, unless additional information is received showing that the case was incorrectly denied and is eligible from the date of entry into care.

A denial based on inability to obtain needed information during the screening process is not permanent, and the case may be screened at a later date once information becomes available. Cases denied in VACIS for this reason (denial code 57) must be monitored by the eligibility supervisor monthly in order to ensure that workers follow-up until a final determination on initial IV-E eligibility is made.



A child who meets the initial eligibility screening requirements as well as the reimbursability requirements must be approved as a maintenance payment case. A child who passes the initial eligibility screening but not the reimbursability requirements must be approved as a non-maintenance case, as specified in Section 202.14.

- E. Date Of Entitlement - Entitlement to IV-E maintenance begins on the date of application provided the reimbursability factors listed in Section 202.9 A - E are met. If the reimbursability factors are not all met on the date of application, entitlement is effective beginning the day all requirements are met. For example, a child enters foster care on October 15. Eligibility for reimbursement of maintenance costs does not begin until October 20 when the child enters a IV-E eligible placement.

The amount of payment for the month of entitlement is determined in accordance with Section 202.11.

- F. Decision Of Eligibility - The eligibility worker is responsible for determining Title IV-E eligibility; however, in some instances a court decision will have some bearing on the Title IV-E eligibility of a child. The service worker will request case closure when the court decision renders a child ineligible for Title IV-E. The case must be closed immediately upon request from service staff.

202.11 AUTHORIZATION AND PAYMENT - The eligibility worker is responsible for determining eligibility for both maintenance and non-maintenance cases and recommending payment for cases eligible for maintenance payments. Payments are not to be rounded.

The amount of the monthly money payment to the foster parent or child caring institution is the total amount of the child's requirements, less any cash income (other than the child's disregarded earnings) directly available to the child or to the foster parents or institution in his behalf.

Authorization by agency action of a IV-E foster care payment in a specific monthly amount to the foster parent or institution constitutes authority for issuance of a pro rata payment, if care is for a part of the month only. Payment for a part of the month is prorated in relation to the authorized amount on a ratio of the number of days of care to the actual number of days in the month.

The eligibility worker must sign, date, and enter the amount of the payment on the Title IV-E Foster Care and Medicaid Initial Evaluation form (032-03-635).

A. Amount Of Payment

Using information provided by the service worker, the amount of the payment is determined as follows:

1. Adoptive Home - The amount of payment for a special needs child placed in an adoptive home is determined and authorized by the service worker. The amount of payment may be lower than, but shall not exceed, the established monthly rate for Title IV-E. Adoption assistance payments may be made by the service worker or through another public or nonprofit agency.

2. Foster Home And Children's Residential Facility

- a. Foster Home - The amount of the monthly foster care payment is the room and board rate, plus the child's individual requirement items (clothing, personal care, recreation,), less any countable earned income. (See Appendix I to Section 202.)

If a required item is totally supplied in kind on a regular basis, the allowance specified for that item in Appendix I to Section 202 is omitted. The item being contributed is not counted as income nor is it to be allowed in the benefit computation.

- b. Special Payments To Foster Parents Of Private Child-Placing Agencies And Public Therapeutic Foster Care Programs - Some foster care children are in need of special services for which the foster parents are paid for providing. These payments are called "Specialized Service Payments" and are paid from state pool funds by service staff. This payment is made in addition to the Title IV-E payment and is not a duplication of the maintenance payment.

The agency may use Title IV-E to pay for extra daily supervision as well as maintenance when foster parents provide care to Title IV-E children placed in foster homes contracted with nonprofit private child-placing agencies, or in foster homes which are part of therapeutic foster care programs provided by public agencies.

To be eligible, children must have special needs and require additional care as a result. The child's special needs, the need for additional supervision, and the amount of the payment must be determined by the service worker and must be documented in the service file. The provider must itemize these costs on a separate line item on the invoice. An internal communication form from the service worker to the eligibility worker, indicating the child's eligibility for IV-E payment of daily supervision and the amount to be paid, will be sufficient documentation for the eligibility file. The eligibility worker will then authorize the basic maintenance payment, plus additional payment amount(s) for daily supervision.

- c. Residential Facility - The amount of the monthly foster care payment is the negotiated rate of allowable costs between the provider and the purchaser. The service worker is responsible for providing the eligibility worker with documentation of the currently negotiated rate and for identifying the allowable costs to be paid by IV-E funds.

Allowable costs include room and board, clothing, personal care, recreation, reading, spending allowance, and the cost of daily supervision. The provider must identify the daily supervision costs as a separate item. The service worker will provide the eligibility worker with a copy of the purchase of service order or the contract with the residential facility. Copies of either of these documents will serve as documentation of allowable costs.

If a daily rate is negotiated, the amount of the monthly payment will be determined by multiplying the number of days in care for the month by the daily rate. The monthly payment will change whenever the number of days in a month changes. If a monthly rate is negotiated, the payment for the month will be the monthly rate negotiated, unless the child was not in the facility for the entire month.

If the room and board rate does not include individual requirement items, the amount for those items as shown under standard rates of payment in Appendix 1 to Chapter 202 will be made monthly to the facility on behalf of the child. In instances where the amounts for individual requirement items are billed "as charged", the agency will reimburse the facility according to "as charged" bills. The service worker must assess whether clothing and supplies are needed and must preauthorize all "as charged" bills.

Payment for a partial month's care in a foster family home or a facility that has a monthly rate is adjusted according to the number of days of care in the month by dividing the applicable foster care rate by the actual number of days in the month and then multiplying by the number of days in care. In cases where the foster child is temporarily absent from the home due to hospitalization, education, training, a visit, or vacation, the foster family will continue to be eligible to receive Title IV-E payments for the child, as long as the foster parents continue to exercise responsibility for day-to-day care of the child. (See Section 202.15 regarding a trial home visit.)

In determining a partial month's payment, include the day the child was placed in the home but not the day he/she was removed.

Any change in circumstances which affects the amount of payment is to be reflected in the payment for the month in which the change occurred. **For example, a child turns 5 on July 26<sup>th</sup>. The July payment must be prorated with 25 days at the previous rate and 6 days at the new rate.**

Payment for children who are voluntarily entrusted cannot cover more than **180 days**. Therefore, it may be necessary to adjust the final payment based on the number of days in a given month that would make up the balance of the **180 days**.

3. Day Care And Transportation - Day care is allowed only in a **fully** licensed or approved child day care program. Transportation costs are allowable for visitation **when the Title IV-E Eligible child is transported for visitation with parents, previous caretakers or siblings. Title IV-E payments are not allowable for the parent or non-Title IV-E eligible siblings to visit the Title IV-E Eligible child.** The service worker will authorize any IV-E payments for day care and transportation.
4. Annual Supplemental Clothing Allowance - An annual supplemental maintenance allowance will be provided to each child receiving IV-E foster care or IV-E adoption assistance maintenance payments to pay for the purchase of clothing at the time of placement, change of placement, or if these items are lost, destroyed, or outgrown. **The child of a foster child is entitled to receive a supplemental clothing allowance also. This allowance shall not exceed \$300 per child per fiscal year. Children who are in a nonreimbursable status are not eligible for the clothing allowance to be reimbursed through IV-E. The minor child's clothing allowance is reimbursable through the mother's Title IV-E maintenance payments as long as the mother is in a reimbursable status.** This allowance shall not exceed \$300 per child per fiscal year. To coincide with state accounting procedures, the period covered by the annual allowance runs from June 1 through May 31. **For accounting purposes, agencies must submit reimbursement for clothing prior to the end of the state fiscal year. The date the bill is paid determines the fiscal year in which the payment is counted.** Payment for special purchase clothing may be made directly to the vendor.

Documentation of need for the supplemental allowance must be recorded in the child's eligibility case record. The service worker will determine clothing needs and the amount of any

payments. The eligibility worker will insure that the amount paid annually does not exceed \$300 per child **by maintaining an accurate record of expenditures.**

B. Period Covered By Payment

1. Payment is made after the end of the month in order to cover the period within the month in which the child received foster care
2. Receipt of TANF in the first month of Title IV-E eligibility does not preclude eligibility for Title IV-E in that month. Concurrent receipt of TANF and IV-E foster care after the first month may result in a TANF overpayment. However, it does not affect IV-E eligibility or payment.
3. If a child runs away from the foster home or institution, his IV-E reimbursability will continue for no more than two days. If the child has not returned within two days, the monthly payment is to be adjusted. The adjusted payment will cover the number of days actually in care, plus two days.

C. Payee - The foster parent (**local department approved foster homes and foster homes approved by for-profit child placing agencies**) or the children's residential facility in which the child is placed or the **not-for-profit** child-placing agency would be the designated payee.

D. Notice Of Action - The service worker is to be notified by the eligibility worker of any action taken which will affect the amount of payment being issued on behalf of the child. The form "Notice to Client of Action" (032-03-017) is to be used for this purpose.

Notice will be sent to the service worker in the following instances:  
(1) initial approval of the case, (2) increase in payment, (3) decrease in payment, (4) suspension or reinstatement of the maintenance payment, and (5) termination due to the child's ineligibility for Title IV-E.

All correspondence with the payee, regarding the Title IV-E payment, must be done by the service worker.

202.12 EVALUATING ELIGIBILITY AND REIMBURSABILITY - The following procedures should be followed in evaluating eligibility and reimbursability.

- A. Forms Used To Evaluate Eligibility And Reimbursability - The Title IV-E Foster Care and Medicaid Application form (032-03-636) must be completed by the service worker, providing information needed to evaluate eligibility and reimbursability. The eligibility worker completes the Title IV-E Initial Evaluation form (036-03-635) when evaluating initial eligibility and the Title IV-E Redetermination Evaluation form (032-03-634) when completing a full or partial redetermination.
- B. Information Used To Determine Eligibility And Reimbursability - Obtaining information needed to establish eligibility should be a joint effort between the eligibility and service workers. The service worker is responsible for providing information on the child's situation that could aid the eligibility worker in determining initial and ongoing eligibility and reimbursability. The eligibility worker is responsible for obtaining needed information from available sources, including electronic information sources and relevant information in agency case records.

Local agencies must have agency procedures in place to ensure timely communication and coordination between eligibility and service staff in determining IV-E eligibility and reimbursability. Every effort must be made to establish IV-E eligibility and reimbursability with the information obtained. If information is found to be insufficient, the agency must deny the IV-E application in VACIS, but should continue efforts to establish eligibility. If sufficient information is subsequently obtained, eligibility may be established retroactively for up to two years.

- C. Eligibility/Reimbursability Information To Be Provided To The Service Worker - The eligibility worker must provide, in writing, to the service worker responsible for the case documentation of the basis for a child's eligibility for IV-E foster care. The eligibility worker must provide the service worker copies of all evaluation forms or intraagency forms, dated and signed, that document:
1. Initial eligibility for IV-E foster care; and
  2. All eligibility redeterminations for IV-E foster care; and
  3. The basis for denial of ineligible cases.
- D. Evaluation of Reported Information - When a change becomes known that may affect eligibility or reimbursability, it must be evaluated and the action taken documented in the case record. Changes are effective the first month after the month in which the change became known to the agency.

202.13 ASSISTANCE PROVIDED TO A MINOR CHILD OF A FOSTER CARE CHILD - In cases where a foster care child is the parent of a **minor** child, and the parent and child are in the same foster home or child care institution, the foster care maintenance payment for the foster care child must include the maintenance needs of the child of the foster child. This provision applies only when legal custody/care of the minor parent's child remains with the minor parent. **If the minor child of a foster care child is placed in the custody of the local department of social services, the minor child is removed from the parent and Title IV-E Eligibility is to be determined separately for the minor child.**

The foster care child's child is not subject to the requirements in Sections 202.3 and 202.4. The fact that the parent receives Title IV-E also establishes eligibility/reimbursability of the child to receive assistance through the IV-E foster care program.

- A. Adding The Minor Child Of A Foster Care Child - The service worker will notify the eligibility worker when a child is born to a foster care child or otherwise commences living with the parent in foster care. The date of birth or date the child enters the parent's home is considered the date of application for the child. The method of referral and time frame for adding the child are the same as stated in Section 202.10. The child is to be added to the parent's Title IV-E case in VACIS using information provided by the service worker.
- B. Referral Of The Absent Parent To DCSE - The local agency is responsible for providing information to DCSE concerning an absent parent of the **minor child of a** foster child. Procedures in Section 202.5 are applicable with the exception that no sanction is to be applied for failure of the parent to cooperate in providing information or otherwise cooperating with DCSE.
- C. Amount Of Payment - The cost of care of the foster child's child is included in the foster care maintenance payment made on behalf of the eligible parent. For a child residing with the parent in a foster family home, the amount of the monthly payment for such child is the monthly foster care rate, based upon the child's age, as specified in Appendix I to Section 202. For a child residing with the parent in a children's facility, the rate negotiated with the institution is to be allowed as well as the individual requirement allowances if not covered in the negotiated rate. Payment for a partial month's care is computed the same as for the parent.

In determining the amount of the child's monthly payment, income and resource policies and procedures applicable to the parent also apply to the child. In any month that countable income or resources exceed the child's needs, the Title IV-E payment must not include an amount for the foster child's child. Notice requirements in Section 202.11.D are to be followed to notify the service worker of any changes in the amount of payment.

Note: Income and resources of the parent and child are to be evaluated separately. Income and resources of the child will not affect the parent's eligibility for Title IV-E or vice versa. A separate special welfare fund will be set up for the child if he has resources of his own.

- D. Medicaid Enrollment - The child born to a foster child who receives a Title IV-E payment is deemed to be a recipient of Title IV-E. Therefore, no separate Medicaid determination is done. The child is enrolled in Medicaid as an "04" member of the foster child's case with the IV-E foster care recipient program designation "74".
- E. Completion Of Foster Care Maintenance Evaluation - A Title IV-E foster care evaluation form is to be completed at the time the child is added to the parent's case and at each redetermination of the parent's Title IV-E eligibility, indicating that this is a child of the foster child, and identifying any income and/or resources of the child.
- F. Eligibility For Assistance Outside Of Parent's Placement - Subsequent to living with a parent in a foster care placement, a child who is separated from the parent may qualify for TANF or Title IV-E depending on his individual circumstances.
- G. When Not To Include The Child In The Minor Parent's Case
  - 1. Agency Obtains Legal Responsibility For Both The Minor Parent And Child - Once the agency has legal responsibility for both the minor parent and child, separate cases must be established and eligibility determined based on their individual comportment with IV-E requirements.
  - 2. Minor Parent In Independent Living - The requirement to include a child's needs in his/her parent's foster care payment does not apply when the parent is in an independent living arrangement. In such situations, the baby's needs may be met through the Temporary Assistance for Needy Families program, if otherwise eligible.



202.14 NON-MAINTENANCE TITLE IV-E ELIGIBLE CHILDREN - Certain children in foster care, while ineligible for maintenance payments under Title IV-E, including the supplemental clothing allowance, are eligible for Title IV-E for administrative reimbursement purposes.

A. Children Eligible For Non-Maintenance Title IV-E - A child is eligible as a Title IV-E non-maintenance case if he passes the Title IV-E eligibility screening and would be eligible for a maintenance payment except that:

1. The child receives SSI benefits which meet or exceed his needs in a regular foster home; or
2. The child is not in an approved placement. The placement does not meet the IV-E requirements for one of the following reasons:
  - a. The child resides in a foster home or residential placement which does not meet Title IV-E requirements;
  - b. The child is in the custody of the agency and is returned home for a trial visit. In this instance, "returned home" means the home in which the child will live and may be the home of the natural/adoptive parent or a specified relative other than the parent. It is not necessarily the home from which the child was removed.

A trial visit may not exceed **180 days**, unless a court orders a longer trial home visit. It is the service worker's responsibility to inform the eligibility worker of the trial visit start and end dates. The eligibility worker must set a special review for **180 days** from the month the child returned home (i.e., returned home in April and must be reevaluated in October with October being the last month of eligibility as a Title IV-E case if the child remains at home) or the last month of the period specified by the court, if longer than **180 days**.

If the child returns to foster care within **180 days** or the period specified by the court, if longer, he or she must be reevaluated for reimbursability for maintenance payments. If the child does not return within the trial period, eligibility no longer exists and the IV-E case must be terminated. If the child reenters foster care following a trial home visit that has exceeded **180 days** or the period of time set by the court, if longer, eligibility must be evaluated as a new episode in foster care even though the local agency may still have custody of the child.

- c. The child has run away **from a foster care placement, provided the placing agency continues to have legal responsibility for placement and care and performs IV-E activities on behalf of the child, including holding administrative reviews and permanency hearings.**
3. The child does not meet the deprivation requirement;

4. The child does not meet the need requirement (excess income or resources) requirement; or
5. The child's last judicial determination has not been completed within 12 months.
6. **A child under the age of 18 who is in independent living may remain nonreimbursable until age 18.**

Non-maintenance cases are subject to all Title IV-E eligibility requirements, unless otherwise specified in policy, and must have a full redetermination of eligibility every 12 months. Note: Although ineligible for Title IV-E maintenance, these children may still be eligible for maintenance payments from state pool funds or other sources.

While a child is Title IV-E non-maintenance, he must be coded in VACIS element 203 (delete Reason) as follows: For receipt of SSI or ineligible placement, use delete code 32. For no deprivation or need, or if the judicial determination is overdue, use delete code 02.

**B. DCSE Requirements For Title IV-E Children Designated As Non-Maintenance**

1. During the time a Title IV-E child is not receiving maintenance payments, referrals must be made manually, using the "Absent Parent/Paternity Information form" (032-03-501). The "Applicant/Custodial Parent/Custodial Agency Information" section on page 4 of the form must be completed and forwarded to DCSE also.
2. Information regarding the child's change in status to non-maintenance must be communicated to DCSE using the "Notification to DCSE of Non-Maintenance IV-E Case" form (032-03-356), providing the following information:
  - a. That the Title IV-E maintenance payment has been discontinued but maintenance is being paid from other sources, the date of the change, and that the local agency is now the payee for any support received;
  - b. That the Title IV-E maintenance payment has been discontinued due to the child's return home for a trial visit, the date the child returned home and, if returned to the home of a parent, the name of the custodial parent. If the child's case is subsequently closed, DCSE must be notified of the closure and date of closure; or
  - c. That the Title IV-E maintenance payment has been discontinued because the child has run away and the date the child's maintenance payment ended.
3. If the child subsequently changes to Title IV-E maintenance status, the MAPPER 501 automated process must be used to communicate information to DCSE.

**C. Medicaid Eligibility of Title IV-E Non-Maintenance Children - Refer to the Medicaid Manual, Volume XIII, Chapter M03, Covered Group Requirements, to evaluate the child for Medicaid.**

202.15 ADOPTION ASSISTANCE - Adoption assistance payments may be made to parents who adopt a child with special needs. To be eligible, the service worker must determine that the child is a special needs child, as specified under federal law. In addition, the child must meet one of the following criteria to be eligible for Title IV-E adoption assistance. (Refer to Appendix 2 to Section 202.)

- A. Child Eligible For Supplemental Security Income (SSI) Benefits - A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child meets the requirements for SSI benefits, and is determined by the service worker to be a child with special needs. The child's eligibility for SSI benefits must be established no later than at the time the adoption petition is filed. There is no requirement that a child must have been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination.

These children are automatically eligible for adoption assistance and should not be referred to the eligibility worker for evaluation. If an SSI child is referred, the eligibility worker should notify the service worker that SSI eligibility, plus the special needs determination made by the service worker, is sufficient proof of eligibility for IV-E adoption assistance.

- B. Children Receiving IV-E Foster Care - Children who are receiving Title IV-E maintenance are eligible for adoption assistance payments, provided they also meet the AFDC criteria of age, deprivation, and need in the month the adoption assistance petition is filed. The redetermination of IV-E eligibility for the month the adoption assistance petition was filed must be completed within 30 days of receipt of notification from the service worker that a petition has been filed.

If the child was removed from his home by court order, a judicial determination must have been made on the initial court order that it was contrary to the child's welfare to remain in the home. If the child was removed pursuant to a voluntary placement agreement, the child must actually receive Title IV-E foster care payments to be eligible for IV-E adoption assistance.

- C. Children Not Receiving Title IV-E Foster Care - A child who did not receive a Title IV-E maintenance payment in the month the adoption petition was filed must meet the AFDC-relatedness criteria both at the time of removal and in the month the adoption petition is initiated. A previous screening that resulted in ineligibility precludes eligibility for adoption assistance.
1. A child who has previously been screened for AFDC eligibility and found eligible must meet the AFDC eligibility criteria of age, deprivation, and need in the month the adoption petition was filed.

2. A child who has never been screened for AFDC eligibility must be evaluated both for initial IV-E eligibility and eligibility in the month the adoption assistance petition was filed. The evaluation of initial eligibility must include legal entry into foster care and applicable judicial language requirements (Section 202.3) and AFDC-relatedness (Section 202.4, i.e., age, citizenship/alienage, removal from a specified relative, deprivation, and need). The child must also meet the AFDC criteria of age, deprivation, and need in the month the adoption assistance petition is filed. (Section 202.7)
3. The evaluation of initial and current eligibility must be completed within 30 days of receipt of notification from the service worker that a petition has been filed.

- D. Children Previously Eligible for Adoption Assistance Payments Whose Initial Adoption Has Been Dissolved - A special needs child who was determined eligible for IV-E adoption assistance payments with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and who fails to meet the requirements of 202.15 B and C above but would meet such requirements if the child were treated as if he/she were in the same financial and other circumstances the child was in the last time the child was determined eligible for IV-E adoption assistance payments and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements for IV-E adoption assistance. This provision applies to children adopted on or after October 1, 1997.

The eligibility evaluation must substantiate the dissolution of the previous adoption or the death of the adoptive parents, that the re-adoption is on or after October 1, 1997, and that eligibility for Title IV-E exists, as specified in 202.15. B and C above, based on the child's circumstances at the time the child was previously determined eligible for adoption assistance.

- E. Child Eligible As A Child Of A Minor Parent - A child is eligible for Title IV-E adoption assistance in this circumstance if:

1. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and the child at the time the adoption petition is initiated; and
2. Prior to the finalization of the adoption, the child of the minor parent is determined by the service worker to meet the definition of a child with special needs.

There are no additional criteria that must be met in order for a child to be eligible for Title IV-E adoption assistance if the child's eligibility is based on his or her minor parent's receipt of foster care while placed with the minor parent in foster care. As with SSI, there is no requirement that the minor parent's child must have been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination.

However, if the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances.

- F. Eligibility And Payment - Special needs children who are placed in an adoptive home continue to be eligible for IV-E foster care until the adoption is finalized, provided they have not been approved to receive adoption assistance maintenance payments. The service worker will advise eligibility staff of adoptive home placement, whether IV-E foster care maintenance is to continue and the amount of the IV-E foster care payment.

Payment may begin as soon as the Adoption Assistance Agreement (032-02-062) is signed and the child is placed in the adoptive home.

- G. Protection of Adoptive Child's Case - All information concerning the whereabouts and/or identity of the adoptive child and the adoptive parents must be removed from the eligibility case record and sent to the appropriate service worker.

202.16 MEDICAL CARE FOR TITLE IV-E RECIPIENTS - Most medical and dental care and treatment are provided through the Medical Assistance Program (Medicaid) for all children. Any services not covered by Medicaid will be paid for out of non-IV-E foster care funds. The service worker will handle the payment.

Non-IV-E funds may also be available for medical needs but will have to be evaluated by the service worker. Physical and psychological examinations or evaluations are not chargeable to the program.

I. Standard Rates of Payment

Foster Home - The statewide standardized monthly rate which shall be paid for the maintenance of each child who is in foster family care is based on the age of the child according to age groupings. These age groupings and standards for payment are established by the State Board as follows:

<u>AGE OF CHILD</u>	<u>ROOM AND BOARD</u>	<u>CLOTHING</u>	<u>RECREATION</u>	<u>MONTHLY ALLOWANCE</u>	<u>RATE</u>
0-4	\$214	\$39	\$59	\$0	\$312
5-12	244	50	64	7	365
13 & Over	296	79	69	19	463

Individual requirement items consist of clothing, personal care items, recreation, reading material, and spending allowance.

II. Maximum Income Levels (185 Percent)

A child will not be eligible for Title IV-E payments in any month in which total gross income exceeds the maximum income level (185 percent of the applicable foster care rate). The chart below shows the maximum income level for children in a foster home.

<u>AGE OF CHILD</u>	<u>MAXIMUM INCOME</u>
0-4	\$577
5-12	675
13 & over	857

The maximum income level (185 percent of need) for a child in a residential facility is determined by multiplying the institutional rate, plus an amount for individual requirement items, if not included in the institutional rate, by 1.85.

## PATHWAYS TO TITLE IV-E ADOPTION ASSISTANCE ELIGIBILITY

	In the month of the voluntary placement agreement or initiation of court proceedings leading to removal...		At the initiation of adoption proceedings...		Prior to finalization...
1.	<p>The child meets all of the AFDC-relatedness criteria</p> <p style="text-align: center;">-- or --</p> <p>If the child is not living with a specified relative in the month of the voluntary placement agreement or court petition leading to removal, but had lived with such a relative within 180 days of the removal date, the child would have met all of the AFDC-relatedness criteria in the month of removal, had the child still been living with the specified relative.</p>	AND	<p>The child would have been a "dependent child" (sec. 406(a) or 407) except for the child's removal from the home of a specified relative pursuant to either a voluntary placement agreement where title IV-E foster care maintenance payments were made, or a judicial determination that remaining at home was contrary to the child's welfare.</p>	AND	<p>Is determined by the State to be a child with special needs.</p>
2.	N/A		<p>The child meets all the requirements of the title XVI Supplemental Security Income Program</p>	AND	<p>Is determined by the State to be a child with special needs.</p>
3.	N/A		<p>The child's parent is in foster care and receiving title IV-E foster care maintenance payments that cover both the minor parent and the child</p>	AND	<p>Is determined by the State to be a child with special needs.</p>
4.	N/A		N/A		<p>The child was eligible for adoption assistance in a previous adoption where the adoptive parent's died or the adoption was dissolved, and the child is determined to be a child with special needs.</p>





A. TYPES OF REVIEWS AND HEARINGS

1. Foster Care Review Hearing (§16.1-282) - is a court hearing to review progress made on the foster care plan. This hearing is held within six months of the 75-day dispositional hearing or the hearing approving the entrustment agreement and continue to be held in certain instances.
2. Permanency Planning Hearing (§16.2-282.1)- is a court hearing where action is taken by the court to achieve permanency for a child. This hearing is held:
  - a. Within five months of the first foster care review hearing; and
  - b. Within 11 months of the dispositional hearing; and
  - c. Within 14 months of placement.

A permanency planning hearing may be held earlier if permanency can be achieved for the child earlier. If a permanent plan cannot be achieved at this hearing, a second permanency planning hearing shall be held within six months. The court must make a judicial determination that reasonable efforts have been made.

If the court determines that reasonable efforts do not need to be made to reunite the child with the parent at a hearing other than a permanency planning hearing, a permanency planning hearing must be held within 30 days of that determination.

3. Permanent Foster Care And Hearings - Once children are placed in a court approved permanent foster care placement with a permanent foster family named in the court order, they are to have annual foster care review hearings scheduled at the conclusion of the hearing where the permanent foster care order was entered (§16.1-282.2).

See next page for a "Foster Care Court Hearings: Basic Time Lines" Matrix.

Basic Time Lines

TIMING	HEARING TYPE	FORMS
Immediately	Emergency Removal Order (ERO)	Petition DC - 511 Emergency Removal Order DC-526 Preliminary Child Protective Order, if necessary, DC-527
Within 5 Days	Preliminary Removal Order (PRO) & Adjudication	Petition DC - 511 Preliminary Removal Order DC - 528 Preliminary Child Protective Order, if necessary, DC - 527
Within 30 Days	Adjudication, only if no adjudication at PRO	Petition DC - 511
Within 60 Days	Submission of Foster Care Service Plan. No court hearing at this time	Foster Care Service Plan
Within 75 Days of Preliminary Removal Order Hearing	Disposition - Initial Foster Care Service Plan Reviewed	Child Protective Order DC-532 Foster Care Plan Transmittal DC - 552 Foster Care Service Plan Part A Permanency Plan Part B, if initial goal is not return home Dispositional Order for Petition DC - 553
Within 6 months of Disposition	Foster Care Review Hearing	Petition for Foster Care Review Hearing DC - 554 Foster Care Service Plan Transmittal DC - 552 Foster Care Service Plan Review Foster Care Review Order DC - 555
Within 5 months of Foster Care Review Hearing	Initial Permanency Planning Hearing	Petition for Permanency Planning Hearing DC - 556 Foster Care Service Plan Transmittal DC - 552 New Foster Care Service Plan Part A Permanency Plan Part B Foster Care Service Plan Review Permanency Planning Order DC - 557

TIMING	HEARING TYPE	FORMS
Within 6 months of Initial Permanency Planning Hearing or Second Permanency Planning Hearing	Subsequent Permanency Planning Hearing for goals of Return Home, Placement with Relatives, or Continued Foster Care (If interim plan approved at Initial PPH)	Petition for Permanency Planning Hearing DC - 556 Foster Care Service Plan Transmittal New Foster Care Service Plan Part A Permanency Plan Part B Foster Care Service Plan Review Permanency Planning Order DC - 557
Within 6 months of Second Permanency Planning Hearing and every 12 months thereafter	Administrative Review	Foster Care Service Plan Review Form or Adoption Progress Report Administrative Panel Review Form
6 months from date of approval of Another Planned Permanent Living Arrangement (APPLA)  or 12 months from last Permanency Planning Hearing for Adoption prior to final order, Permanent Foster Care or Independent Living  Filed every 6 months From the date of final order terminating parental rights	Foster Care Review Hearing          Foster Care Review Hearing       Adoption Progress Report Filed until final order of adoption is issued; the court may not hold a hearing	Petition for Foster Care Review DC - 554 Foster Care Review Order DC - 555 Foster Care Service Plan Transmittal DC - 552 Foster Care Service Plan Review Foster Care Review Order DC - 555          Adoption Progress Report (DSS Form)

Chapter 300 contains Aid to Families with Dependent Children (AFDC) policies as they were in effect on July 16, 1996. These policies should be used to establish AFDC-relatedness as required in the Title IV-E foster care initial eligibility determination. The requirements stated in Section 301.1 A.1, 2, 5, and 6 must be met for purposes of ongoing reimbursability.

### 301.1 AFDC-RELATEDNESS ELIGIBILITY FACTORS

A. A child is categorically eligible for AFDC if he:

1. Is under the age of 18 years or if 18, but not yet 19, is enrolled in a secondary school or vocational/technical school of secondary equivalency, and is expected to complete the high school or vocational/technical program prior to or in the month age 19 is attained. (301.2 and 301.3)
2. Is deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity, or the unemployment/underemployment of a parent. (301.4)
3. Is living in the home of a parent or a certain specified relative (301.5). (When deprivation is due to unemployment, both natural or adoptive parents of at least one child must be living in the home.)
4. Is a resident of Virginia. (301.6)
5. Is a citizen of the United States or a qualified alien. (301.7)
6. Is in need of financial assistance. (303 and 305)

B. The needs of the parent(s) in the home must be included in the AFDC-relatedness determination, unless one of the exceptions specified in 302.4.D. is applicable. An AFDC assistance unit may exist even though the only child(ren) in the home receives SSI. The SSI child must meet all of the eligibility criteria listed in 301.1.A. in order for the unit to meet AFDC-relatedness requirements of the initial eligibility determination.

C. Participation of a parent in a work stoppage or strike on the last day of the eligibility month precludes eligibility for Title IV-E foster care.

301.2 AGE - The month, day, and year of the child's birth must be established and evidence thereof entered in the eligibility case record. The following are examples of documents that may be used to document age:

- A. Birth certificate or notification of birth;
- B. Hospital or physician's record;
- C. Baptismal record;
- D. School or baptismal record;

- E. Midwife's record of birth; and
- F. Information obtained from state or local vital records.
- G. **SVES data, using the "Date of Birth" and "Proof of Age" elements on Screen 2, provided the "Proof of Age" code is B (birth/baptismal record). Other codes represent less reliable verification sources.**

If the day and month cannot be established, July 1 is assumed to be the birth date.

Continuing IV-E Eligibility - The child is eligible until he reaches the age of 18. He is eligible/reimbursable for the month in which his eighteenth birthday occurs if he has not attained age 18 on the first day of that month.

An 18 year old child is eligible if enrolled full-time in a secondary school or a vocational/technical school of secondary equivalency if he is reasonably expected to complete the high school or vocational/technical program prior to or in the same month as his nineteenth birthday. The child is eligible for the month in which completion of the school program occurs; however, eligibility cannot be extended past that month. Under no circumstances can eligibility continue beyond the child's nineteenth birthday. If, at any time during the child's eighteenth year, it is determined that the child will not complete the program of study by the month of his nineteenth birthday, the child's IV-E eligibility ceases effective the date that notification is received. The case record must be well documented in this area.

The program is considered completed on the last day of final exams or, if exams are not required, the last day of scheduled classes, or the date the graduation ceremony is scheduled to occur, whichever is most advantageous in providing IV-E assistance to the child. The eligible 18 year old child is considered to be enrolled full-time, regardless of the number of courses or length of time in school.

301.3 SCHOOL ENROLLMENT - Student status of school age children must be evaluated as follows:

- A. Age 0 Through 17 - School enrollment is not a requirement of eligibility or reimbursability. (See 305.3.B.)
- B. Age 18 - A child is considered enrolled at school or a training course in months in which he is not actually enrolled because of official vacation or because of illness, convalescence or family emergency, and for the month in which he completes or discontinues his school or training program.

301.4 Deprivation Of Parental Support Or Care - The child must be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity or unemployment/underemployment of a parent. A parent means either the mother or father, married or unmarried, natural or adoptive, following entry of the interlocutory order.

Deprivation of parental support or care exists under the following conditions, regardless of whether the parent was chief breadwinner or devoted himself or herself primarily to care of the child and whether or not the parents are married to each other.

- A. Death Of A Parent - If either parent of a child is deceased, the child is deprived of parental support or care. Evidence of death must be recorded in the case record. Deprivation on the basis of death of the father cannot exist if paternity has not been established. The following are examples of documents that may be used to document death:
1. Death certificate;
  2. Burial permit;
  3. Newspaper obituary;
  4. Hospital or insurance record;
  5. Funeral director's statement;
  6. Social Security or Veterans' Benefits award letter; and
  7. Information obtained from state or local vital records.
- B. Continued Absence Of A Parent From The Home - Continued absence of the parent from the removal home constitutes the reason for deprivation of parental support or care (1) when the parent is out of the home, (2) the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and (3) the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.
1. The following situations meet the definition of continued absence and render the child deprived:
    - a. Court decreed divorce when one parent is actually out of the home;
    - b. Deportation of a legal parent by the U. S. Immigration and Naturalization Service;
    - c. Unestablished paternity (see Section 301.5.B.12 regarding acceptable proof of paternity);
    - d. Incarceration of a legal parent;
    - e. Court conviction of a legal parent who is serving a court imposed sentence of unpaid public work or unpaid community service during working hours while still living in the home. Deprivation in this situation is based on the parent's sentencing which precludes employment. Paid employment would negate deprivation. (Deprivation based on this provision is only applicable when both parents are in the home.);
    - f. Desertion by a legal parent who is out of the home and has made no provision for support;

- g. Separation due to reasons other than those listed above which the worker determines have interrupted or terminated the provision of physical care, guidance, or maintenance (support) by the absent parent. This includes absence due to working away from the home, frequent contact with the child due to court-ordered visitation or an informal agreement by the parents, or the parents have joint custody.

When the absence of a parent is due only to his/her active duty in the uniformed services, that parent is not considered absent. Therefore, a child(ren) whose parent left an intact family situation for duty in the uniformed services and intends to return home or rejoin the family at some point in the future is not considered deprived. This would also apply to acknowledged parents if the parent is part of the intact family situation as described above.

The agency must document at initial eligibility determination and each redetermination whether or not the only reason for the absence is due to duty in the uniformed services using the best available evidence.

If the absence is for a reason other than uniformed services, (e.g., AWOL, military incarceration, marital separation, has never lived together, has subsequently decided not to resume the intact family setting upon return, etc.), deprivation must be evaluated according to the separation policy;

- h. Single parent adoptions;
  - i. Artificial insemination, provided the father was an anonymous donor; and
  - j. Although termination of parental rights (TPR) may not be used as a deprivation factor initially, it may be used as a deprivation factor at review. For example, a child may meet initial IV-E eligibility because the parents are separated. If their parental rights are subsequently terminated, deprivation is then based on continued absence due to TPR. The status of the parents does not have to be evaluated after parental rights have been terminated.
- 2. Continued absence must be evaluated and documented in the initial eligibility determination, at each annual review, and whenever a change is reported. The case record must contain documentation of the evidence used to establish the absence of the parent. Examples of acceptable evidence of absence are:
    - a. Service worker's knowledge;
    - b. Written or verbal statements by the parent, relatives, or other individuals knowledgeable of the situation from which the child was removed, unless there is reason to question the information; and



- c. Federal, state, and local agency records, i.e., Immigration and Naturalization Service, correctional institutions, public assistance agencies, and courts.
- C. Physical Or Mental Incapacity Of A Parent - A child is deprived of parental support or care if either parent has a physical or mental defect, illness or disability and that incapacity substantially reduces or prevents the parent providing support or care. Incapacity may be total or partial, permanent or temporary but must be expected to last for a period of at least 30 days.

In making the determination of ability to support, the agency must take into account the limited employment opportunities of handicapped individuals. For the purpose of determining deprivation, a handicapped individual means any person who has a physical or mental impairment that results in a substantial deterrent to employment. The eligibility worker must have information that establishes the existence of an impairment that substantially limits employment opportunities.

Incapacity must be supported by a professional determination or by evidence of receipt of Social Security Disability benefits or SSI based on disability or blindness only.

- D. Unemployment Of A Parent (UP) - A child may be deprived due to the parents' unemployment (or underemployment) of a parent when both parents are in the removal home. The following requirements must be evaluated to establish deprivation due to unemployment:
  - 1. The child must reside in a home in which both natural or adoptive parents reside and neither parent is incapacitated. The parents do not have to be married.
    - a. In the case of a putative father living in the home, a notarized affidavit of paternity or other convincing evidence of paternity must exist in order to qualify for AFDC-UP.
    - b. The man's name appears on the child's official birth certificate issued by the state vital records agency in which the child was born.
  - 2. The assistance unit must be in financial need.
  - 3. Using the best available information, determine whether deprivation due to unemployment is met. This may include, but is not limited to, the following:
    - a. Agency knowledge;
    - b. Information obtained through systems matches, such as the Virginia Employment Commission; and
    - c. Information provided by the parents, relatives, or other individuals knowledgeable of the situation from which the child was removed, unless there is reason to question the information.

301.5 LIVING ARRANGEMENTS - Under federal regulations, the child must be living with a parent or other specified relative (Subsection A., below) in a residence maintained as a home (Subsection C., below) by one or more such relatives. Exception: For AFDC-UP, both natural or adoptive parents of at least one child must have been living in the removal home.

A. Specified Relatives - The relative with whom the child was living in the removal home must be one of the following:

1. A Blood Relative: Mother; father, including the father who is not married to the child's mother when evidence of paternity exists as described in Section 301.5.B.12; brother; sister; uncle; aunt; nephew; niece; first cousin. This definition includes the above relatives, if of half-blood, and those of preceding generations as denoted by prefixes of grand, great, or great-great. Note: For purposes of meeting the relationship requirement, the relationship to biological relatives is not severed by termination of parental rights or adoption.
2. A "Step" Relative: Stepmother, stepfather, stepbrother, or stepsister.
3. A Relative By Adoption Following Entry Of The Interlocutory Order: The same relatives, by adoption, as listed in the two preceding groups.
4. A Relative By Marriage: The spouse of any person specified in the three preceding groups even after the marriage is terminated by death or divorce.
5. Any relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child, such as great-great-great grandparents or a first cousin once removed. (A first cousin once removed is the relationship between an individual and his/her first cousin's child.)

The following is a guide for establishing degrees of relationship:

- a. Parent of child--1st degree;
- b. Grandparent of child--2nd degree;
- c. Great grandparent--3rd degree;
- d. Great-great grandparent--4th degree;
- e. Great-great-great grandparent-- 5th degree;
- f. Aunt/uncle of child--3rd degree;
- g. Great aunt/uncle--4th degree;
- h. Great-great aunt/uncle--5th degree;

- i. Sibling of child--2nd degree;
  - j. Niece/nephew of child--3rd degree;
  - k. Great niece/nephew of child--4th degree;
  - l. Great-great niece/nephew--5th degree;
  - m. First cousin of child--4th degree;
  - n. First cousin once removed(child of first cousin)--5th degree.
- B. Best Available Evidence - Use available documents to trace relationship between the child and the specified relative from whom the child was removed. These may include, but are not limited to:
- 1. Birth certificate;
  - 1. Hospital certificate;
  - 2. Adoption papers;
  - 3. Baptismal certificate;
  - 4. Hospital or physician's record;
  - 5. Court record of adoption;
  - 6. Church records;
  - 7. Information obtained from a state or local vital records office;
  - 8. Marriage records;
  - 9. Divorce orders that identify the relationship of the specified relative to the child;
  - 10. If documents are not available, a statement by an individual, other than the specified relative from whom the child was removed, who has sufficient knowledge to attest to the relationship is acceptable, unless there is reason to question the information; and
  - 11. Other convincing evidence obtained by the agency and documented in the case record.
  - 12. If the specified relative is the father not married to child's mother or a relative of the father, evidence of paternity is required. The basis used to establish paternity must be documented in the eligibility case record. Following are examples of acceptable evidence of paternity:
    - a. The man has been found by a court to be the child's father;
    - b. The man has admitted paternity either before a court or voluntarily, in writing, under oath;

- c. Unrelated to any court action to establish paternity, the man has voluntarily submitted to genetic testing which affirmed at least a 98 percent probability of paternity.
- d. The man's name appears on the child's official birth certificate issued by the state vital records agency in which the child was born.
- e. The child has been placed by a court with the man or a relative of the man on the basis that he is the child's father.
- f. Other convincing evidence of paternity, as determined by the agency. This determination should consider all available information, such as but not limited to, public declarations of paternity, residence with the mother at the time of the child's conception; inclusion of the child as a dependent on official documents, court records, medical records, correspondence between the putative father and the child, and knowledge of other family members. The basis for the finding of paternity must be documented in the case record.

Note: Once evidence of paternity has been determined, the worker must establish the relationship between the specified relative in the removal home and the father. The case record must be documented regarding how the child is related to the specified relative, denoting the methods used to make the determination.

- C. Living In A Home - A home is the family setting maintained or in the process of being established by the specified relative, as evidenced by assumption and continuation of responsibility for day-to-day care of the child. A home exists so long as the relative exercises responsibility for care and control of the child, even though the child or relative is temporarily absent from the customary family setting for reasons such as hospitalization, education or training, a vacation, or a visit. Additionally, a home may exist in situations where the assistance unit lacks a fixed home address or is otherwise considered homeless as long as the relative is exercising responsibility for day-to-day care and control of the child(ren).

As long as the relative exercises this responsibility, the child meets the conditions of "living with" even though:

- 1. Legal custody is held by an agency other than the local department of social services, such as the court, which does not have physical possession of the child; or
- 2. The child is under the jurisdiction of the court, for example, receiving probation services or protective supervision; or
- 3. The child was placed in the home by court order.

301.6 RESIDENCE - Residence must be evaluated in the initial eligibility determination. It is not a factor of ongoing reimbursability. Federal regulations require that a child be considered a resident of the state in which he is living, other than on a temporary basis, regardless of the reason he entered the state or the residence of his parents. An individual is a resident of the state he is living in even though he may be homeless or may have entered the state seeking employment or with a job commitment. Temporary absence from the state, with subsequent return to the state or intent to return does not affect eligibility.

301.7 CITIZENSHIP AND ALIENAGE - The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 restricts eligibility for Title IV-E foster care and adoption assistance to children who are United States citizens or eligible qualified aliens. Anyone whose needs are considered in determining the amount of assistance must also be a citizen of the United States or an eligible qualified alien.

Note: The qualified alien provisions in PRWORA supersede AFDC law and regulations as in effect on July 16, 1996. As a result, not all legal aliens or aliens permanently residing in the U. S. under color of law meet the criteria for qualified alien status.

A. Citizenship/Alienage Status

1. Citizenship - An individual is a U. S. citizen if he is:
  - a. Born in the United States, regardless of the citizenship of his parents; or
  - b. Born outside the United States of U. S. citizen parents (the mother, if born out of wedlock); or
  - c. Born outside the United States of alien parents and has been naturalized as a U. S. citizen. A child born outside the United States of alien parents automatically becomes a citizen after birth if his parents (the mother, if born out of wedlock) are naturalized before he becomes 16 years of age.
2. Alienage - An alien must be a qualified alien as defined below or meet the exception in d.3) below. If the alien does not meet the definition of a qualified alien or the exception, he does not meet the alienage requirement. If he meets the definition of a qualified alien, he must then be evaluated in accordance with b., c., and d.1) and 2) below, depending on the date he entered the U. S.
  - a. "Qualified alien" is defined as:
    - 1) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);

- 2) An alien granted asylum under Section 208 of the INA;
  - 3) A refugee admitted to the U. S. under Section 207 of the INA, or an alien who is admitted to the U. S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended);
  - 4) An alien paroled into the U. S. under Section 212(d)(5) of the INA for a period of at least one year;
  - 5) An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect prior to April 1, 1997) or section 241(b)(3) of the INA (as amended by section 305(a) of division C of Public Law 104-208);
  - 6) An alien granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980;
  - 7) An alien, and/or alien parent of battered children and/or an alien child of a battered parent who is battered or subjected to extreme cruelty while in the U. S. as defined in Appendix I to Chapter 301.
  - 8) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
- b. If the qualified alien entered the U. S. prior to August 22, 1996, he is an eligible alien.
- c. If the qualified alien entered the U. S. on or after August 22, 1996, he is ineligible for assistance for five years from the date of entry, unless he is:
- 1) An alien granted asylum under section 208 of the INA;
  - 2) An alien admitted to the U. S. as a refugee under section 207 of the INA, or an alien admitted as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended);

- 3) An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of the INA (as amended by section 305(a) of division C of Public Law 104-208); or
  - 4) An alien who is a Cuban-Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
- d. Exception For Veterans And Persons On Active Duty And Their Relatives - An alien lawfully residing in the state (not here illegally) meets the alienage requirement, regardless of the date of entry into the U. S., provided he is:
- 1) a qualified alien and is a veteran discharged honorably and not on account of alienage and who has served a minimum of 24 months or the period for which the person was called to active duty. "Veteran" also includes persons who served in the Philippine Commonwealth Army during World War II or as Philippine Scouts following the war;
  - 2) a qualified alien on active duty (other than active duty for training) in the Armed Forces of the United States; or
  - 3) the spouse or unmarried dependent child of an individual (not deceased) described in 1) or 2) above, or the surviving spouse of an individual (deceased) described in 1) or 2) above, provided the surviving spouse has not remarried and was married to the deceased veteran:
    - (a) before the end of a 15-year period following the end of the period of military service in which the injury or disease causing the death of the veteran was incurred or aggravated; or
    - (b) for one year or more; or
    - (c) any period of time if a child was born of the marriage or was born to them before the marriage.

The spouse or unmarried dependent child is not required to be a qualified alien.

Facts to be Established1. Citizenship

a. If born in the U. S. or  
any of its territories

b. If born outside the U. S.

Substantiation and Procedures1. Citizenship

a. Verified by birth record showing place of birth or by U. S. passport. If such documents are not currently available and the child is obviously under 12, the service worker's statement as to the child's place of birth, if in the U. S., is acceptable substantiation of U. S. citizenship, unless there is reason to question.

If the parent(s) declare that they were born in the U. S. citizenship is presumed established unless there is reason to question.

b. Certificate of derivative citizenship, naturalization papers, a document issued by a U. S. Embassy or Consulate attesting that the child is a U. S. citizen born abroad. If such documents are not available, the EW must verify citizenship through the Nearest U. S. Immigration and Naturalization Service (INS). Requests for verification should be obtained by mail, if possible. The address and telephone number of the INS Offices in Virginia are:

U. S. Immigration and  
Naturalization Service  
Norfolk Commerce Park  
5820 Henneman Drive  
Norfolk, VA 23513  
Telephone: (757) 858-6183

U. S. Immigration and  
Naturalization Service  
4420 N. Fairfax Drive  
Arlington, VA 22203  
Telephone: (703) 235-4026



Facts to be Established2. Alienage

At application and when alien status is subject to change, documentation verifying status must be obtained.

If the documents have expired or there is no documentation, contact the local INS office to request new documents.

a. The following groups of aliens are qualified aliens. All qualified aliens who entered the U. S. prior to August 22, 1996, are eligible aliens.

(1) Aliens lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (without regard to the number of SSA qualifying quarters of work the alien has).

(2) Aliens granted asylum under Section 208 of the INA.

Substantiation and Procedures2. Alienage

Examine available documents and determine if the individual meets one of the qualified alien statuses below. If an INS receipt for a replacement document was used to verify qualified alien status, follow-up at the first redetermination to obtain a copy of the replacement document.

A copy of the INS document(s) must be filed in the case record.

a. The documents listed below for each alien group are not necessarily all inclusive. An alien may have other documents showing his alien status to be one of those listed for qualified aliens.

(1) Alien Registration Receipt Card (Form I-151 or AR3a or I-551), or unexpired temporary I-551 stamp on foreign passport or on I-94.

If the lawful permanent resident (LPR) is an American Indian born in Canada and covered by Section 289 of the INS: I-551 with the code "S13"; or a letter or other tribal document certifying at least 50 percent American Indian blood, combined with a birth certificate or other evidence of birth in Canada.

Note: Form I-151, Form AR-3, and Form AR3a are earlier versions of the I-551. If the alien has only the older version, refer him to INS to apply for the I-551.

(2) Arrival Departure Record (I-94) with stamp showing grant of asylum under Section 208 of the INA; or Employment Authorization Card (I-688B) bearing "Provision of Law" citation 274a.12(a)(5);

Facts to be EstablishedSubstantiation and Procedures

	or (Employment Authorization Document (I-766) annotated "A5"; or Grant letter from the Asylum Office of INS; or Order of an immigration judge granting asylum.
(3) Refugees admitted under Section 207 of the INA, or	(3) Arrival Departure Record (I-94) annotated with stamp showing admission under Section 207 of the INA; or Employment Authorization Card (I-688B) bearing "Provision of Law" citation 274.a12(a)(3) or (4); Employment Authorization Document (I-766) annotated "A3"; or Refugee Travel Document (I-571); or
an alien admitted as an Amerasian immigrant.	an I-94 coded AM1, AM2, or AM3; or an I-551 coded AM6, AM7, or AM8; or an unexpired temporary I-551 stamp in foreign passport.
(4) Aliens paroled into the U. S. under Section 212(d)(5) of the INA for at least one year.	(4) Arrival Departure Record (I-94) with stamp showing admission for at least one year under Section 212(d)(5). (Alien cannot aggregate periods of admission for less than one year to meet the one-year requirement.)
(5) Aliens admitted as conditional entrants under Section 203(a)(7) of the INA.	(5) Arrival Departure Record (I-94) with stamp showing admission under Section 203(a)(7) of the INA; or Employment Authorization Card (I-688B) annotated "274a.12(a)(3)"; or Employment Authorization Document (I-766) annotated "A3."
(6) Aliens whose deportation has been withheld under Section 241(b)(3) or 243(h) of the INA.	(6) Employment Authorization Card (I-688B) annotated "274.a12(a)(10)"; or Employment Authorization Document (I-766) annotated "A10"; or Immigration Judge's Order showing deportation withheld under section 243(h) of the INA, or removal withheld under section 241(b)(3) of the INA.

Facts to be Established

(7) An alien who is a Cuban-Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980. A Cuban-Haitian entrant is a person who:

(a) has been granted parole by INS for humanitarian or public interest reasons, unless a final order of deportation or exclusion has been issued;

(b) has an application for asylum pending with INS, unless a final order of deportation or exclusion has been issued;

(c) is subject to INS exclusion or deportation proceedings, unless a final order of deportation or exclusion has been issued.

(8) An alien and/or alien parent of a child battered or subjected to extreme cruelty and/or alien children of a parent who is battered or subjected to extreme cruelty while in the U. S. who meets the following requirements:

(a) The perpetrator is a spouse, parent, or other household member of the spouse or parent's family who was residing in the home at the time of the incident but is no longer in the home. The alien must not now be residing in the same household as the person responsible for the battery or extreme cruelty, and

Substantiation and Procedures

(7) Alien Registration Receipt Card (I-551) with the code CU6, CU7, or CH6; or an unexpired temporary I-551 stamp in foreign passport or on an I-94 with the code CU6 or CU7; or an I-94 with stamp showing parole as "Cuban/Haitian Entrant" under section 212(d)(5) of the INA.

Document that an alien is subject to exclusion or deportation, using letters or notices which indicate ongoing exclusion or deportation proceedings for that person. Contact INS if information indicates that a final order of exclusion or deportation has been issued.

(8) Document using available information and other sources knowledgeable of the situation.

Document decision of the local agency that there is a substantial connection between the battery or cruelty and the need for benefits.

Facts to be EstablishedSubstantiation and Procedures

(1) the alien was battered or subjected to extreme cruelty while in the U. S. by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien, and the spouse or parent consented to, or acquiesced, in such battery or cruelty;

(2) the alien's child was battered or subjected to extreme cruelty while in the U. S. by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty and the alien did not actively participate in the battery or cruelty, or

(3) the alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty while in the U. S. by that parent's spouse, or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to the battery or cruelty.

(b) The alien has a petition approved by or pending with INS for one of the following:

(1) status as an immediate relative (spouse or child) of a U. S. citizen;

(2) classification changed to immigrant;

(3) status as the spouse or child of a lawfully admitted permanent alien (LAPR); or

(4) suspension of deportation and adjustment to LAPR status based on battery or extreme cruelty by a spouse or parent who is a U. S. citizen or LAPR alien.

(b) Examine available documents to determine if this requirement is met. Document case record.

Facts to be Established

b. If a qualified alien entered the U. S. on or after August 22, 1996, he must also meet one of the following requirements.

(1) The alien was admitted as a refugee under Section 207 of the INA, or is an Amerasian immigrant (even though status may now be adjusted to LPR).

(2) The alien was granted asylum under Section 208 of the INA.

(3) The alien's deportation is being withheld under Section 241(b)(3) or 243(h) of the INA.

(4) The alien is a Cuban-Haitian entrant.

c. Exception for Veterans/Relatives of Veterans - An alien who is lawfully residing in the state and meets one of the following criteria is an eligible alien, regardless of his date of entry, provided he is:

(1) a qualified alien who is a veteran (as described in Section 301.7 A.2.d.1)) discharged honorably and not because of alienage, or

Substantiation and Procedures

b. Document qualified alien status is met in a. above, and whether the alien meets any of the requirements below. If none of these requirements are met, the alien is ineligible for five years from his date of entry into the U. S.

(1) Document same as (3) page 3; or if now an LPR, verify admission as a refugee by code RE-6, RE-7, RE-8, or RE-9 on alien's I-551.

(2) Document same as (2) on pages 2-3; if now an LPR, verify alien was previously granted asylum by contacting the INS.

(3) Document same as (6) on pages 3; or if now an LPR, verify previous deportation or removal withheld by contacting the INS.

(4) Document same as (7) on page 4.

c. Document lawful alien status (status must be other than illegal).

(1) Verify qualified alien status according to Section 2.a (1)-(7), pages 2-4. Verify military status using available documents or through military records (i.e., Form DD 214).

(a) Document active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard.

Facts to be EstablishedSubstantiation and Procedures

- (b) If DD 214 shows original enlistment before September 7, 1980, there is no minimum active-duty service requirement. If the DD 214 shows two or more years of continuous active duty, the alien meets the minimum active-duty service.
  - (c) Document "Honorable" discharge. "Under Honorable Conditions" is not acceptable for purposes of this requirement.
  - (d) Contact the VA office regarding aliens in any other branch of service or with any other type of duty (e.g., "Active Duty for Training") to determine veteran status, or if DD 214 is not available or shows active duty service of less than two years with original enlistment after September 7, 1980.
  - (e) If alien has no papers showing service or discharge, contact the local VA regional office to determine alienage status.
- (2) a qualified alien who is on active duty (except for training) in the U. S. Armed Forces (Army, Navy, Air Force, Marine Corps, or Coast Guard), or
- (2) Verify qualified alien status according to Section 2a (1)-(7) above. Verify military status using available documents or through military records (e.g., Military ID (DD 2 (Active))).
  - (a) DD 2 must show an expiration date of more than one year from the date of determination.
  - (b) If the DD 2 is due to expire within one year from date of determination, verify active duty through a copy of the current military orders.
  - (c) If the military orders are not available, verify active duty by contacting:

DEERS Support Office  
Attn: Research and Analysis  
400 Gigling Road  
Seaside, CA 93955-6771  
Fax Number: (408) 655-8317

Facts to be Established

(3) the spouse or unmarried dependent child of an individual in (1) or (2) above (as described in Section 301.7 A.2.d.3))

(4) the unremarried surviving spouse of an individual in (1) or (2) above (as described in Section 301.7 A.2.d.3)).

(a) Determine that the surviving spouse was married to the veteran or active duty alien within 15 years after the termination of the period of service in which the injury or disease causing his death was incurred/aggravated;

(b) Determine that the surviving spouse was married to the veteran or active-duty personnel for one year or more; or

(c) Determine that a child was born of the relationship between the surviving spouse and veteran or active-duty personnel, either during or before the marriage.

Substantiation and Procedures

(3) In addition to verification of veteran or active duty status of alien in service as stated in (1) and (2) above, verify relationship to the alien in military service. Qualified alien status not required.

Document dependent status of a child by possession of a Military ID card and that the child is under age 18, or if a full-time student is under age 22.

(4) Verify according to procedures in (1) or (2) above, as appropriate, that the deceased spouse was a veteran or active duty military member.

(a) Accept the surviving spouse's statement, unless there is reason to question.

(b) Accept applicant/recipient's statement, unless there is reason to question.

(c) Verify through records in surviving spouse's possession or through the state vital records office.

## ASSISTANCE UNIT

6/02

302.1 - 302.4

302.1 DEFINITION OF THE AFDC ASSISTANCE UNIT - The AFDC assistance unit is comprised of the individuals whose income, resources, and needs are evaluated in determining initial IV-E eligibility of a child entering foster care.

302.2 DEFINITION OF PARENT - The parent is the natural or adoptive parent who is responsible for supervision and care of the child entering foster care.

The assistance unit includes one parent, except when:

- A. Both parents, including the acknowledged father (paternity has been established), are living together in the home and one is incapacitated; or
- B. The household consists of a married couple who each have a child of their own; or
- C. When deprivation is due to unemployment, both natural or adoptive parents who are living in the home.

302.3 DEFINITION OF SIBLINGS - The term, "siblings," means two or more children with at least one natural or adoptive parent in common.

302.4 COMPOSITION OF THE AFDC ASSISTANCE UNIT - The AFDC assistance unit is required to include, when living together, the parent(s) and minor sibling(s) of a child entering foster care. Therefore, each sibling living in the home with the foster care child must be evaluated to determine if he/she meets the categorical requirements listed in Section 301.1.A. This includes any sibling living in the home with both natural or adoptive parents who are also living in the home.

When the child entering foster care is the minor parent of a dependent child living in the home, the assistance unit must include the minor parent and the minor parent's siblings living in the home. The assistance unit does not include the minor parent's child.

The assistance unit will include the following individuals:

- A. The natural or adoptive parent who is living in the same home as the child for whom assistance is requested, unless otherwise indicated by policy in 302.4.D.
- B. All blood related or adoptive siblings, including those emancipated by court order or marriage, who meet the categorical requirements of an eligible child, living in the same home as the child for whom assistance is requested. Note: The spouse of the child emancipated by marriage cannot be living in the home for eligibility to exist. The spouse will not be considered absent from the home if the absence is only due to active duty in the uniformed services. Apply guidelines in 301.4.B.1.g. For AFDC-UP, all siblings of the child deprived due to the unemployment/underemployment of a parent who meet the categorical requirements for AFDC are included in the AFDC-UP assistance unit, regardless of the reason for their deprivation.

When all categorical requirements are met, the needs of that child will be included in the assistance unit.



C. The following child(ren) are not included in the AFDC assistance unit:

1. A child who is receiving SSI, unless the child is applying for Title IV-E foster care;
2. A child who is ineligible for a specified period of time based on the receipt of a lump sum while a required member of an assistance unit receiving AFDC (not TANF);
3. A child who receives a foster care maintenance payment or whose needs are included in the foster care maintenance payment for his parent;
4. A child who receives an adoption assistance maintenance payment; and
5. A child of the child entering foster care.

D. The following parents are not included in the assistance unit:

1. The parent who is receiving SSI;
2. The parent who is not a U. S. citizen or a qualified alien;
3. The parent who is a foster care child;
4. The parent who is ineligible for a specified period of time based on the receipt of a lump sum while a required unit member of an assistance unit receiving AFDC (not TANF);
5. The parent who is ineligible for a specified period of time because of an intentional program violation penalty imposed while a required unit member of an assistance unit receiving AFDC (not TANF); and
6. The parent who is a convicted offender, serving a court-imposed sentence of unpaid public work, or unpaid community service during work hours, while still living in the home.

302.5 HOUSEHOLDS WITH MULTIPLE GROUPS OF CHILDREN - A group of children can be a single child, or natural or adoptive siblings. When the household consists of more than one group of children, the determination of which children will comprise the AFDC assistance unit is based on legal responsibility. Children who are siblings of the child entering foster care are required assistance unit members when establishing initial IV-E eligibility. Other children who are not siblings of the child entering foster care are not required unit members and must be excluded when determining initial IV-E eligibility.

302.6 COMBINED HOUSEHOLDS - The following scenarios provide guidance in establishing the AFDC assistance unit when the parent of the child entering foster care is married to, or is cohabiting with, a non-parent of the child entering care.

- A. When the household consists of a couple (married or unmarried), one of whom is not the parent of the child entering care and there are no legally acknowledged children in common, only the natural or adoptive parent and siblings of the foster care child are included in determining the child's initial IV-E eligibility.
- B. When the household consists of a couple (married or unmarried), one of whom is not the parent of the child entering care and there is a legally acknowledged child in common, the AFDC assistance unit will include the foster care child, the natural or adoptive parent, the natural or adoptive siblings, **and the stepparent since he is the parent of a child in the assistance unit.** If the child in common is deprived due to parental incapacity or unemployment/underemployment, that child and his parent in the home are also included in the AFDC assistance unit for purposes of establishing initial IV-E eligibility.
- C. When the household of the child entering foster care consists of a parent, his/her child(ren), and a child who is biologically related to the parent but has been adopted by someone other than the biological parent, the adopted child is excluded from the AFDC assistance unit when determining initial IV-E eligibility of the child in foster care.

302.7 IV-E ASSISTANCE UNIT - The assistance unit normally includes only the eligible child in foster care. When the eligible IV-E child has a child, and the foster child and his/her child reside together in a foster home or institution, the assistance unit also includes the foster child's child for purposes of establishing the foster care rate, but not for evaluating financial eligibility.

303.1 PROPERTY RESOURCES AFFECTING ELIGIBILITY/REIMBURSABILITY - Section 303 contains Aid to Families with Dependent Children (AFDC) policies applicable in determining IV-E initial eligibility and ongoing reimbursability.

AFDC regulations require a state to set specific limitations upon the type and amount of real and personal property, including cash and liquid assets, which may be retained by the assistance unit without affecting eligibility for financial assistance. The specified amounts are known as "allowable reserves."

All real and personal property for which an assistance unit member has legal ownership will be considered in determining eligibility. Ownership of property by an individual means that the individual has a clear entitlement to the property, real or personal, or a specific portion thereof. Life rights in real property do not meet the definition of ownership.

303.2 ALLOWABLE RESERVES - The following are allowable reserves, ownership of which does not affect eligibility.

- A. The Removal Home And Its Contents: The home, when ownership is involved, means the house, lot, and all contiguous property. This exemption will also apply to any buildings, in addition to the house, which are situated on the property. If income is received from the use of the property or buildings on it, however, the income will be considered available to the assistance unit.

Contiguous property is defined as the land and improvements not separated from the house lot by land owned by others. Streams and public rights of way which run through the property and separate it from the home will not affect the property's contiguity.

Exception: If the assistance unit in the removal home is using a vehicle, a boat, a camper, or another type of shelter as a home, this shelter is an allowable resource, ownership of which does not affect eligibility for the period of time the assistance unit lives in it.

- B. One Motor Vehicle With An Equity Value Of \$1,500 Or Less: The equity value of all vehicles owned by a member of the assistance unit must be determined in accordance with policy in Section 303.3.B. Excess equity in a motor vehicle is considered in relation to the resource limit in Section 303.2.E below, except when the assistance unit is using the vehicle as a home.
- C. Property (Real and Personal) owned solely by any individual in the household who is receiving SSI. When property is owned jointly by an SSI recipient and an AFDC assistance unit member, follow procedures in Appendix I to Chapter 303, Section A.2. and B. to determine any countable value.
- D. Income Producing Farming And Business Equipment, including vehicles and tools used in a craft or trade that are essential to employment or self-employment.

- E. Cash and other assets, (including liquid assets and real and personal property not listed above or in excess of the specified amount) not to exceed \$10,000 for the assistance unit. Liquid assets are those properties in the form of cash or other financial instruments which are convertible to cash.
- F. Burial plots, one per member of the assistance unit, or excluded unit member listed in Section 303.3.F whose resources are considered available to the assistance unit.
- G. Bona fide funeral agreements covering assistance unit members, or excluded unit members listed in Section 303.3.F whose resources are considered available to the assistance unit, with a maximum equity value of \$1,500 per individual. These include formal agreements for funeral and burial expenses, such as revocable burial contracts, burial trusts, or other funeral arrangements (generally with a licensed funeral director). Note: Funds in excess of the \$1,500 limit, per individual, are applied against the \$10,000 resource limit.

Irrevocable burial contracts, regardless of the value, are not considered available, since they cannot be converted to cash. Note: Burial contracts made in Virginia are revocable. Only contracts made out-of-state could be irrevocable.

Passbook bank accounts, or simple "set-asides" of savings for funeral expenses, and cash surrender values of life insurance policies are not excluded from consideration as a resource.

Any assets, real or personal, other than those listed above must be evaluated as an available resource.

303.3 DETERMINING THE VALUE OF PROPERTY - The value of assets as a resource to the assistance unit is the equity in the property, real or personal. Equity is defined as the fair market value minus encumbrances (legal debts) against the property.

The agency will establish fair market value for specific items as follows:

- A. Real Property - The fair market value of real property other than the home shall be obtained from the Assessor's Office or the Commissioner of Revenue in the locality where the property is located. (See procedures in Chapter 303, Appendix I, Item A, for substantiating property ownership and value.)
- B. Motor Vehicles - The fair market value of a motor vehicle must be determined by using one of the methods stated in Item B.1. of Appendix I to Chapter 303.

If only one motor vehicle is owned by the assistance unit and that motor vehicle has an equity value in excess of \$1,500, the excess shall be considered in relation to the \$10,000 allowable reserve.

If two or more motor vehicles are owned by the assistance unit, the motor vehicle with the highest equity value will be exempt up to \$1,500. The combined equity value in all other motor vehicles, plus any excess equity in the exempt vehicle, shall be counted in relation to the \$10,000 allowable reserve.

Increases in motor vehicle values between redeterminations will be considered as inconsequential and no review is necessary, unless the recipient reports a change in the value.

- C. Insurance - Availability of any insurance policies must be determined. The cash value of insurance policies which can be cashed in by any member of the assistance unit must be verified and counted in relation to the \$10,000 allowable reserve. Refer to Appendix I to Chapter 303, Item B.2, for guidance on substantiating availability and value.
- D. Trust Funds - In the event the resource is a trust fund, the agency must determine availability of the funds in the trust to the assistance unit. Refer to Appendix I to Chapter 303, Item B.5, for guidance on substantiating availability and value.
- E. Disregarded Property Of Excluded Individuals - If, in determining initial IV-E eligibility, a required unit member is excluded due to one of the following reasons, any resources designated for that individual are disregarded in determining eligibility of the child entering foster care.
  - 1. A child does not meet categorical requirements in 301.1.A.1-5;
  - 2. A child or parent is receiving SSI;
  - 3. A child or parent is ineligible due to a lump sum period of ineligibility established while he or she was a required member of an AFDC (not TANF) assistance unit;
  - 4. A child receives a foster care or adoption assistance maintenance payment;
  - 5. A parent is an alien whose immigration status does not meet AFDC requirements; or
  - 6. A parent is a convicted offender in the home serving a court imposed sentence per 302.6.D.12.
- F. Countable Property of Excluded Individuals - If, in determining initial IV-E eligibility, a parent is excluded due to an intentional program violation imposed while receiving AFDC (not TANF), all of the parent's resources are considered available to the assistance unit.

- G. Loans - Purchases made with a loan are considered resources. When a bona fide loan is used to purchase real or personal property, the amount owed on the loan is considered an encumbrance against the property if the loan is a legal debt and failure to repay would result in repossession of the property.
- H. Child Support Refunds - Refunds of child support from the Division of Child Support Enforcement identified as closed case refunds must be considered in relation to the allowable reserve.

When any of the reserved items listed in 303.2 above or any other real or personal property owned by an individual whose resources are considered in determining eligibility are sold or transferred into cash or other liquidable assets, these items are resources and will be considered in relation to the \$10,000 allowable reserves.

Example: Ms. C sells her exempted vehicle and receives \$500 from the sale. The agency will consider this sum of money in relation to the allowable reserve.

The case record must contain information regarding ownership of property and, where applicable, its value.

Exception: The value of any property owned by an SSI recipient living in the removal home is not counted as property available in relation to the allowable reserves of the AFDC assistance unit, even though such recipient is the parent of the child(ren) entering foster care or is an otherwise eligible sibling. Refer to Appendix I to Chapter 303, for guidance in evaluating property owned jointly by an SSI recipient and an assistance unit member.

303.4 DISREGARDED RESOURCES - In determining initial eligibility and ongoing reimbursability, all resources must be considered in relation to the \$10,000 allowable reserves, except as specifically disregarded below and in Section 303.2:

- A. The value of the food coupons under the Food Stamp Program.
- B. The value of foods donated under the U.S.D.A. Commodity Distribution Program.
- C. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- D. Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

- D. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the U. S. Secretary of Education. Programs that are administered by the U. S. Secretary of Education are: Pell Grants, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loans (including the Virginia Education Loans), PLUS Loans, Congressional Teachers Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program.
- F. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs, the Women, Infants and Children (WIC) Program, and the Child Care Food Program.
- G. Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage, as determined by the director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973. The worker must contact the Action Office at the following address or telephone number when VISTA payments are reported: Action Office, 400 N. 8th Street, Richmond, Virginia 23219, (804) 771-2197.
- H. Any funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 98-64, 98-123, 98-124, or 97-458. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded.
- I. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):
  - 1. Cash (including cash dividends on stock received from a Native Corporation) to the extent that the total received does not exceed \$2,000 per individual per calendar year;
  - 2. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);
  - 3. A partnership interest;
  - 4. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and
  - 5. An interest in a settlement trust.

- J. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114).
- K. Disregarded support payments of up to \$50 per month per assistance unit, which were sent to the assistance unit by the state.
- L. Tools and equipment belonging to a temporarily disabled member of the assistance unit during the period of disability and tools and equipment belonging to an unemployed parent in an AFDC-UP assistance unit, when such tools and equipment have been and will continue to be used for employment.
- M. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988 and disaster assistance provided by state and local governments, and disaster assistance organizations (Public Law 100-707).
- N. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383).
- O. Earned Income Tax Credit refunds and advance payments, in the month of receipt and the month following the month of receipt. However, any portion of the refund or advance payment retained after the month following the month of receipt will be considered with all other resources in relation to the allowable reserve.
- P. Any payment received from the Agent Orange Settlement Fund or any other fund established in response to the Agent Orange product liability litigation. To verify whether a payment is an Agent Orange payment, use available documents. If documents are not available, write to the Agent Orange Veteran Payment Program, P. O. Box 110, Hartford, CT 06104, Attention: Agent Orange Verification. Include in the request the veteran's name and social security number. If a survivor of the qualifying veteran was paid, also provide the survivor's name and social security number.
- Q. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426).
- R. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law 96-420); and the Aroostook Band of Micmacs Settlement Act (Public Law 102-171).



- S. Student financial assistance received under Title IV of the Higher Education Act. Assistance to be disregarded under this provision, whether awarded to an undergraduate or graduate student, includes but is not limited to:
- Pell Grants,
  - Supplemental Educational Opportunity Grants,
  - State Student Incentive Grants,
  - Federal College Work-Study Programs,
  - Perkins Loans (formerly National Direct Student Loans), and
  - Guaranteed Student Loans (including PLUS loans and Supplemental Loans for Students).
- T. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392). Attendance costs are defined below.
1. Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and
  2. An allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.
- U. Funds in an escrow account established under the Family Self-Sufficiency Program of the Department of Housing and Urban Development.
- V. Student financial assistance received under Bureau of Indian Affairs Student Programs.
- W. All bona fide loans, regardless of the intended use. This includes loans obtained for any purpose, and may be from a private individual as well as from a commercial institution. A statement, written or verbal, indicating that the payment is a loan and must be repaid is sufficient to verify that a loan is bona fide. If it cannot be established that the money was a loan, the money is to be treated as unearned income in the month received and a resource thereafter.

Interest earned on the proceeds of a loan while held in a savings account, checking account, or other financial instrument will be counted as unearned income in the month received and a resource thereafter.

- X. Payments received by victims of Nazi persecution under Public Law 103-286.
- Y. TANF match payments issued to TANF recipients based on current support collected by the Division of Child Support Enforcement.
- Z. Payments received from the Ricky Ray Hemophilia Relief Fund established under Public Law 105-369.
- AA. Veterans Administration benefits received by children born with spina bifida, who are natural children of individuals who served in Vietnam during the period beginning January 9, 1962, and ending on May 7, 1975.

These resources are to be disregarded as long as they are kept separate from the allowable reserve. In the event any funds derived from items C. through X. above are combined with other resources, documentation must be available to verify the exempted amount. Otherwise, the funds must be considered in determining eligibility or reimbursability.

304.1 GENERAL PROVISIONS - Determination of need and amount of assistance must be made on an objective and equitable basis for all cases. Income standards established by the state must be uniformly applied across the state, and all types of income must be counted in the same way except where otherwise specifically authorized by federal statute.

304.2 AFDC INCOME STANDARDS- The State Board has established income standards, based on the size of the assistance unit, to be used in evaluating AFDC-relatedness. The standards established cover all allowable maintenance needs (food, including special diet; clothing; personal care; household supplies and equipment; insurance; school supplies and expenses; laundry; utilities, including telephone; housekeeping and personal services; obligations incurred within the month of application; guardianship fees; and the average shelter cost, including rent or house payments, taxes, fire or comprehensive insurance, repairs, installations, water, sewage and trash disposal, appropriate to the locality in which the assistance unit resides) which are consolidated as specific dollar amounts representing the requirements of assistance units according to size. There is no specified amount identified for any particular item and the client is responsible for budgeting the amount received among the various needs of the assistance unit.

Because of wide variation in shelter costs within the state, three groups of standards have been established reflecting this variation. Appendix I to Section 304 lists the localities in the state according to the group in which they fall.

## AFDC GROUPING OF LOCALITIES

GROUP ICounties

Accomack  
 Alleghany  
 Amelia  
 Amherst  
 Appomattox  
 Bath  
 Bedford  
 Bland  
 Botetourt  
 Brunswick  
 Buchanan  
 Buckingham  
 Campbell  
 Caroline  
 Carroll  
 Charles City  
 Charlotte  
 Clarke  
 Craig  
 Culpeper  
 Cumberland  
 Dickenson  
 Dinwiddie  
 Essex  
 Fauquier  
 Floyd  
 Fluvanna  
 Franklin  
 Frederick  
 Giles  
 Gloucester  
 Goochland  
 Grayson  
 Greene  
 Greensville  
 Halifax  
 Hanover  
 Henry  
 Highland  
 Isle of Wight  
 James City  
 King George  
 King & Queen  
 King William  
 Lancaster  
 Lee

Louisa  
 Lunenburg  
 Madison  
 Mathews  
 Mecklenburg  
 Middlesex  
 Nelson  
 New Kent  
 Northampton  
 Northumberland  
 Nottoway  
 Orange  
 Page  
 Patrick  
 Pittsylvania  
 Powhatan  
 Prince Edward  
 Prince George  
 Pulaski  
 Rappahannock  
 Richmond County  
 Rockbridge  
 Russell  
 Scott  
 Shenandoah  
 Smyth  
 Southampton  
 Spotsylvania  
 Stafford  
 Surry  
 Sussex  
 Tazewell  
 Washington  
 Westmoreland  
 Wise  
 Wythe  
 York

Cities

Bristol  
 Buena Vista  
 Clifton Forge  
 Danville  
 Emporia  
 Franklin  
 Galax  
 Norton  
 Suffolk

GROUP IICounties

Albemarle  
 Augusta  
 Chesterfield  
 Henrico  
 Loudoun  
 Roanoke  
 Rockingham  
 Warren  
  
Cities  
 Chesapeake  
 Covington  
 Harrisonburg  
 Hopewell  
 Lexington  
 Lynchburg  
 Martinsville  
 Newport News  
 Norfolk  
 Petersburg  
 Portsmouth  
 Radford  
 Richmond  
 Roanoke  
 Staunton  
 Virginia Beach  
 Williamsburg  
 Winchester

GROUP IIICounties

Arlington  
 Fairfax  
 Montgomery  
 Prince William

Cities

Alexandria  
 Charlottesville  
 Colonial Heights  
 Falls Church  
 Fredericksburg  
 Hampton  
 Manassas  
 Manassas Park  
 Waynesboro

## AFDC STANDARDS OF NEED

## GROUP I

<u>Size of Assistance Units</u>	<u>Need Standard</u> (100%)
1	\$ 146
2	229
3	295
4	358
5	422
6	473
7	535
8	602
9	657
10	718
Each person above 10	61

## AFDC STANDARDS OF NEED

## GROUP II

<u>Size of Assistance Units</u>	<u>Need Standard</u>
	(100%)
1	\$ 174
2	257
3	322
4	386
5	457
6	509
7	570
8	636
9	692
10	754
Each person above 10	61

## AFDC STANDARDS OF NEED

## GROUP III

<u>Size of Assistance Units</u>	<u>Need Standard</u>
	(100%)
1	\$ 243
2	327
3	393
4	457
5	542
6	593
7	655
8	721
9	779
10	838
Each person above 10	61

305.1 INCOME ELIGIBILITY - Section 305 contains Aid to Families with Dependent Children (AFDC) policies applicable in determining IV-E initial eligibility and ongoing reimbursability.

- A. Determination Of Title IV-E Income Eligibility And Reimbursability - In order to meet the initial AFDC-relatedness income requirement, the assistance unit's countable income must not exceed 185 percent of the AFDC income standard. The income limit when determining ongoing reimbursability of the child's case is 185 percent of the child's foster care rate. (Refer to Section 202.1.C for information on assistance unit composition when determining initial eligibility and ongoing reimbursability.)
- B. Methods Used To Calculate Monthly Income - When determining eligibility or reimbursability, the actual amount received must be used, if known. If the actual amount is not known, the best estimate of the income received, or expected to be received, in the eligibility month or payment month must be used.

The following methods are provided as guidance in arriving at a monthly amount.

1. If income is received on a regular basis, the following conversion guidelines may be applied in estimating monthly amounts.
  - a. If income is received weekly, multiply by 4.3;
  - b. If income is received biweekly, multiply by 2.15; and
  - c. If income is received semimonthly, multiply by 2.

If income received is for less than a full month, the actual amount received or the agency's best estimate should be used as the monthly amount.
2. If income fluctuates seasonally, it may be appropriate to use the most recent season's income to arrive at the best estimate of income.
3. For migrant and seasonal farm worker assistance units, in the absence of verification, the eligibility worker should estimate income based on formal or informal commitments for work, collateral information, or agency knowledge of income from such employment. Also, income should not be based on an assumption of optimum weather or field conditions.



4. Profit from the sale of livestock or cash crops, such as tobacco or peanuts, or from small businesses, such as but not limited to, vending stands, home beauty shops, or small grocery stores, is prorated on an annual basis or over the number of months in which the income is earned, whichever is appropriate. Federal farm subsidies are prorated over a 12-month period. The best estimate may be established based on collateral information when other sources of verification, such as bookkeeping records or tax returns cannot be obtained.
5. Guaranteed salaries paid under contract that can be verified should be prorated over the period of the contract even though the employee elects to receive such payments in fewer months than are covered by the contract. When the contract earnings will be received monthly over a period longer than that of the contract, the earnings must be prorated over the number of months the income is anticipated to be received. When necessary, the agency may establish an estimate based on information as to pay for comparable employment. Contract earnings are defined in Section 305.3.

- C. Use Of Best Available Evidence To Determine Countable Earned And Unearned Income - In order to establish initial eligibility or ongoing reimbursability, the worker must use the best available evidence to determine the income received by the assistance unit. When information is needed to determine the amount of income to be counted, the eligibility and service worker should work together to determine the best information available to document the amount of income to be counted.

Information used to document income of the assistance unit may be verbal or written. When verbal information is obtained, the case record documentation should identify the individual who provided the information, the date of contact, and the information obtained.

When attempts to obtain information to estimate countable income prove to be unsuccessful because the person or organization who is to provide the information fails to cooperate and there are no alternate sources of information available, the eligibility worker, in consultation with the service worker, must determine an amount to be used for IV-E eligibility purposes based on the best available information. In the absence of verification of earnings, the agency may establish an estimate based on information as to pay for comparable employment. The case record must be documented to reflect the method used to arrive at the anticipated income.

- D. Periodic Recalculation of Income - The IV-E child's income must be reestablished and the best estimate recalculated at each 12-month redetermination and between redeterminations when a change has been reported or becomes known to the agency. The eligibility and service worker must work together to establish ongoing eligibility using the best available information.

305.2 INCOME TO BE COUNTED - For the purposes of determining the amount of the assistance unit's countable income, it is necessary to count all income, both earned and unearned, which is available to the assistance unit, except for that portion specifically disregarded. The income below is not considered countable income when determining AFDC income-relatedness or the IV-E child's ongoing reimbursability.

- A. Reimbursements for out-of-pocket expenses shall not be considered countable income. These expenses may include, but are not limited to, reimbursement for travel expenses, such as mileage; reimbursement to the parent for child care expenses; reimbursements for expenses incurred as a volunteer.
- B. Money which belongs to another person that is handled by the client to pay expenses for that person is not considered available to the assistance unit.

Example 1: Mrs. C. has a son in the Army who is currently in Germany. He sends her \$250 a month to pay his car payment of \$250 a month. None of this money is to be considered as income to Mrs. C.

Example 2: Mrs. X and Mrs. Y live in the same house which is rented in Mrs. X's name. Mrs. Y gives Mrs. X an established portion of the rent each month. Mrs. X adds her portion to Mrs. Y's and pays the rent. Since this is a "shared shelter" arrangement, Mrs. Y's portion of the rent is not considered income to Mrs. X.

Note: This policy is not intended to replace roomer/boarder and property rental situations.

- C. The first \$30 received by each individual in the assistance unit per calendar quarter for special occasions, such as birthdays, Christmas, etc., is disregarded. Calendar quarters are January through March, April through June, July through September, and October through December. Any amount in excess of the \$30 per quarter anticipated to be received will be counted as income in the payment month in which it is anticipated to be received.

305.3 EARNED INCOME - Earned income is defined as income earned by an individual through the receipt of wages, salary, and/or commissions, or through profit from activities in which he is engaged as a self-employed individual. Earned income includes pay for jury duty, severance pay, vacation pay, and sick pay from the employer, or employer obtained insurance.

Self-employment is defined as a business, farming, or commercial enterprise in which the individual receives income earned by his own efforts, including his active engagement in management of property. Income from property when the individual is not actively engaged or when no managerial responsibilities are involved is not considered earned income. In addition, self-employment situations include, but are not limited to, domestic workers, day care providers, including baby sitters, and chore and companion service providers.

Contract earnings are wages guaranteed by a contract. This does not include work on an hourly or piecework basis or self-employment. A guaranteed wage is one which is received by an individual employed on a contractual basis and paid over a period of time. Earnings of this nature must be prorated according to Section 305.1.B.5.

When income is received from property, the eligibility case record must clearly indicate the basis for determining whether or not the individual produces it by his own efforts or whether or not he is actively engaged in management.

A. Definition Of Gross Earnings Or Profit

1. Gross earned income from wages, salary or commissions means the total amount of pay, irrespective of deductions, withholding or work expenses. It is not the "take home" pay. Exception: Money advanced from an employer prior to the regular pay date must be counted as part of the gross income in the month of receipt. Any amount withheld to repay an advance in salary received prior to the payment month shall be deducted from gross earnings or profit for the month in which it is withheld.
2. Profit from self-employment means the total income received, less the business expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, business expenses do not include:
  - a. Payments on the principal of the purchase price of, and loans for, capital assets, such as real property, equipment, machinery and other goods of a durable nature;
  - b. The principal and interest on loans for capital improvement of real property;
  - c. Net losses from previous periods;
  - d. Federal, state, and local taxes;
  - e. Money set aside for retirement purposes;
  - f. Personal expenses, entertainment expenses, and personal transportation; or
  - g. Depreciation of equipment, machinery, or other capital investments necessary to the self-employment enterprise.

B. Disregarded Earned Income - As specified below, certain earned income of members of the assistance unit and excluded individuals required to be in the assistance unit must be disregarded in determining need of the assistance unit and amount of payment.

1. Earned income of any child received from participation in employment programs established under the Workforce Investment Act (previously the job Training Partnership Act); and
2. The gross monthly earnings of a child who is a student.

C. Countable Earnings - The amount of monthly earnings remaining after the above disregards have been applied is the countable earned income to be used in computing need and payment.

305.4 OTHER INCOME - In determining countable income, all other income received by the assistance unit or used in determining eligibility must be counted in the month in which it is received, except that specifically disregarded under A. below:

Document the case record concerning the basis for counting income and the amount counted. Use the best information available to determine the amount received or deemed.

- A. Other Income Disregards - The following income of members of the AFDC assistance unit, a parent not included in the AFDC assistance unit, or anyone whose income is used in determining IV-E eligibility or the IV-E child's maintenance reimbursability must be disregarded.
1. Home produce of the assistance unit utilized for their own consumption.
  2. The value of food coupons under the Food Stamp Program.
  3. The value of foods donated under the U.S.D.A. Commodity Distribution Program, including those furnished through school meal programs.
  4. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
  5. Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.
  6. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the U. S. Secretary of Education. Programs that are administered by the U. S. Secretary of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loan, including the Virginia Educational Loan, PLUS Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program.
  7. Any funds derived from the federal College Work Study Program or any other college work study programs.
  8. A scholarship, loan or grant obtained and used under conditions which preclude its use for current living costs.
  9. Training allowances (transportation, books, required training expenses and motivational allowances) provided by the Department of Rehabilitative Services (DRS) for persons participating in DRS programs.

The disregard is not applicable to the allowances provided by DRS to the family of the participating individual.

10. Any portion of an SSI, Auxiliary Grant, or TANF payment, **TANF Match Payment, or Virginia Initiative for Employment Not Welfare (VIEW) payments for supportive services, such as transportation, uniforms, child care, etc.**
11. Payments to VISTA Volunteers under Title I, when the monetary value of such payments is less than minimum wage, as determined by the Director of the action office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973. The worker must contact the Action Office at the following address or telephone number when VISTA payments are reported; Action Office, 400 N. 8th Street, Richmond, Virginia 23219, (804) 771-2197.
12. The Veterans Administration educational amount for the parent 18 or older is to be disregarded when it is used specifically for educational purposes. Any additional money included in the benefit amount for dependents is to be counted as income to the assistance unit.
13. Foster care and adoption assistance payments received by anyone in the assistance unit.
14. Any unearned income received from Job Corps by a child is to be disregarded as an incentive payment. However, any payment received by any other Job Corps participant or any payment made on behalf of the participant's eligible child(ren) is to be counted as income to the assistance unit.
15. Income tax refunds (including Earned Income Tax Credit payments and refunds).
16. Any payment made under the Fuel Assistance Program.
17. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs; the Women, Infants, and Children (WIC) Program; the child care food program; and U.S.D.A. reimbursement payments to day care providers which are authorized by the National School Lunch Act.
18. HUD Section 8 and Section 23 Payments.
19. Any unearned income received by a child as a result of participation in a program administered under the Workforce Investment Act (previously the Job Training Partnership Act) is to be disregarded.

20. Any funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 98-64, 98-123, 98-124 or 97-458. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income are disregarded.
21. The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241):
  - a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that the total received does not exceed \$2,000 per individual per calendar year;
  - b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);
  - c. A partnership interest;
  - d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and
  - e. An interest in a settlement trust.
22. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114).
23. In determining eligibility, the first \$50 of total child or child and spousal support payments received by the assistance unit is to be disregarded.
24. Payments sent to the recipient by the state which are identified as disregarded support.
25. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988 and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707).
26. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383).
27. Payments by a needs-based cash assistance program, such as TANF, for support services such as transportation, uniforms, child care, etc.

28. Any payment received from the Agent Orange Settlement Fund or any other fund established in response to the Agent Orange product liability litigation. To determine whether a payment is an Agent Orange payment, use available documents. If documents are not available or the situation is unclear, write to the Agent Orange Veteran Payment Program, P.O. Box 110, Hartford, CT 06104, Attention: Agent Orange Verification. Include in the request the veteran's name and social security number. If a survivor of a qualifying veteran was paid, also provide the survivor's name and social security number.
29. Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426).
30. Funds received pursuant to the Maine Indians Claims Settlement Act of 1980 (Public Law 96-420); and the Aroostook Band of Micmacs Settlement Act (Public Law 102-171).
31. Student financial assistance received under Title IV of the Higher Education Act. Assistance to be disregarded under this provision, whether awarded to an undergraduate or graduate student, includes but is not limited to:
  - a. Pell Grants,
  - b. Supplemental Educational Opportunity Grants,
  - c. State Student Incentive Grants,
  - d. Federal College Work-Study Programs,
  - e. Perkins Loans (formerly National Direct Student Loans), and
  - f. Guaranteed Student Loans (including PLUS loans and Supplemental Loans for Students).
32. Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392). Attendance costs are defined below:
  - a. Tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and
  - b. An allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.
33. Funds paid to an escrow account established under the Family Self-Sufficiency Program of the Department of Housing and Urban Development.

34. Student financial assistance received under Bureau of Indian Affairs student assistance programs.
35. Up to \$2,000 per year of income received by individual Indians, which are derived from leases or other uses of individually-owned trust or restricted lands.
36. All bona fide loans, regardless of the intended use. This includes loans obtained for any purpose, and may be from a private individual as well as from a commercial institution. A statement, written or verbal, indicating that the payment is a loan and must be repaid is sufficient to verify that a loan is bona fide. If it cannot be established that the money was a loan, the money is to be treated as unearned income in the month received and a resource thereafter.

Interest earned on the proceeds of a loan while held in a savings account, checking account, or other financial instrument will be counted as unearned income in the month received and as a resource thereafter.

37. Payments received by victims of Nazi persecution under Public Law 103-286.
38. **Payments received from the Ricky Ray Hemophilia Relief Fund established under Public Law 105-369.**
39. **Any veteran benefits received by children born with spina bifida, who are natural children of individuals who served in Vietnam during the period beginning January 9, 1962, and ending on May 7, 1975.**

B. Income From Social Security And Other Benefits - The total monthly amount received from such benefits is the amount to be counted as income.

A. Lump Sum Payments - A lump sum payment is a nonrecurring payment, such as the accumulation of benefits for a prior period, including Social Security and Worker's Compensation benefits; payments in the nature of a windfall, e.g., inheritances or lottery winnings; and personal injury awards. It does not include SSI lumpsum payments of retroactive benefits.

1. A lump sum received prior to the eligibility month is a resource.
2. A lump sum received by a required assistance unit member, a stepparent in the home, or a parent who is an ineligible alien during the eligibility month is treated as income in the month received. No period of ineligibility is to be established.

D. Support From Relatives

1. Spouse, Parent, Or Minor Sibling In The Home - In family groups living together, income of the spouse is considered available for his spouse, income of a parent is considered available for his minor dependent children, and income of the ineligible alien parent is considered available to his child's assistance unit.



- a. If the parent or a sibling of the child entering foster care is receiving SSI, Auxiliary Grant payments, adoption assistance maintenance payments, or a foster care payment, none of his income can be counted as available in determining initial IV-E eligibility or ongoing reimbursability. If the child entering foster care receives SSI, his income, excluding the SSI payment, must be counted, unless otherwise disregarded by IV-E policy.
- b. If the parent does not meet the citizenship or alienage requirement, any income he has is considered available to the eligible child by applying the ineligible alien deeming formula in Section 305.4.F. A lump sum payment received by an ineligible alien parent is considered only in determining initial IV-E eligibility and is counted as income in the month of receipt only. No period of ineligibility is to be established.

If a sibling in the AFDC assistance unit is ineligible because of his citizenship/alien status, none of his income is available.

- c. The income of the spouse of a parent, who is the stepparent of children in the AFDC assistance unit, is considered available to his spouse and the children in evaluating initial IV-E eligibility. Income of the stepparent is considered available in accordance with Section 305.4.F.
2. Spouse (Stepparent) Or Parent Outside The Home - Child support or child support commingled with alimony received by the assistance unit is counted as income in the amount actually received, minus the first \$50 each month.
  3. Putative Fathers Outside The Home - In cases involving absent putative fathers, cash contributions are counted as income in the amount received, minus the first \$50 each month, in establishing initial and continuing eligibility until such time as the contribution is redirected to the state.
- E. Other Non-Responsible Persons - Cash contributions from non-responsible persons are counted as income in the amount received.
- F. Deeming Income - In determining initial IV-E eligibility, the income of certain individuals living in the home with the assistance unit must be evaluated to determine what amount, if any, must be deemed, whether or not the income is actually made available to the unit. Income deeming is applicable to the following persons:
- A stepparent living with the assistance unit who is not included in the assistance unit;
  - An alien parent who is ineligible for assistance due to his alien status.

The procedures described below are to be used to determine the amount of income that must be deemed available to the assistance unit.

1. Deeming Procedures - Federal regulations provide that a portion of a stepparent or ineligible alien's income be deemed available to the AFDC assistance unit when he/she is living in the removal home and not included in the assistance unit. This provision is not applicable when both parents are in the home and deprivation is due to unemployment of a parent.

The amount to be assumed available is computed by subtracting the following from the gross monthly earned income (net profit if from self-employment) or gross unearned income of the stepparent or ineligible alien.

Deduct from the gross monthly earnings (net profit, if self-employment):

- a. The first \$90 of gross earned income;
- b. The income standard at 100 percent for household members claimed or who could be claimed as dependents on the stepparent or ineligible alien's federal income tax return, excluding members of the assistance unit.

If the stepparent or ineligible alien has not previously filed a return or states that he will claim a different number of dependents for the current year, use the number of dependents he intends to claim for the current year.

- c. Support, including wage assignments paid to individuals not living in the home who are claimed or could be claimed as dependents on the stepparent or ineligible alien's federal income tax return.

If the stepparent or ineligible alien has not previously filed a return or states that he will claim a different number of dependents for the current year, use the number of dependents he intends to claim for the current year.

- d. Payments for alimony and child support, including wage assignments to individuals not claimed on the stepparent or ineligible alien's federal income tax return and not living in the household.

Note: Income of a stepparent will be deemed available to the child(ren), regardless of whether the natural or adoptive parent of the child(ren) is also living in the home. Divorce terminates the stepparent's financial responsibility but not the degree of relationship.

The amount remaining after the above deductions will be counted as unearned income and deducted from the grant.

- G. Other Cash Income - The total amount of all other cash income is to be counted. Exception: Any contribution from another agency or organization must be counted as income, unless the contribution is for an item not included in the AFDC income standard. (See Section 304.1.)
- H. Royalties - Royalties are considered unearned income.
- I. Interest Income - Interest earned on cash assets, such as a bank account or certificate of deposit, is considered unearned income in the month received (available) and a resource thereafter, unless otherwise specified in policy. The interest income is counted in the month it is anticipated to be received even if paid quarterly, annually, etc. It is not to be prorated over the period earned.
- J. In-Kind Income - Contributions-in-kind (e.g., food or clothing) are considered inconsequential and are not counted in determining need.

305.5 INCOME OF EXCLUDED CHILDREN REQUIRED TO BE IN THE ASSISTANCE UNIT - When a child is excluded from the assistance unit due to lack of evidence of categorical requirements for the child (see Section 301.1.A.), that child's needs will not be included in the assistance unit. The earned and unearned income of that child, however, will be considered available to the assistance unit. The earned income disregards are applicable per Section 305.3.B. Use the best available information to determine the amount to be counted as available.

If the child has been determined categorically ineligible to be in the assistance unit, no part of his income will be considered available to the assistance unit, unless it is actually made available to the unit.

Maximum Income Chart  
185 Percent of Need

<u>Size of Assistance Unit</u>	<u>Group I</u>	<u>Group II</u>	<u>Group III</u>
1	\$270	\$322	\$ 450
2	424	475	605
3	546	596	727
4	662	714	845
5	781	845	1003
6	875	942	1097
7	990	1055	1212
8	1113	1177	1334
9	1215	1280	1441
10	1328	1395	1550
Each person above 10	113	113	113